

COPY

IN THE CIRCUIT COURT FOR THE CITY OF RICHMOND

JOHN MARSHALL COURTS BUILDING

-----x
 PHILIP MORRIS COMPANIES, INC., et al.,

Plaintiffs, At Law No.
 -against- 760CL94X
 00816-00

AMERICAN BROADCASTING COMPANIES,
 INC., et al.,

Defendants.

-----x

June 9, 1995
 9:10 a.m.

Continued videotaped deposition of VICTOR
 HAN, taken by Defendant, pursuant to adjournment,
 at the offices of Proskauer Rose Goetz &
 Mendelsohn, Esqs., 1585 Broadway, New York,
 New York before Eric J. Finz, a Shorthand
 Reporter and Notary Public within and for the
 State of New York.

2058457716



MANHATTAN
 REPORTING CORP

132 NASSAU STREET • NEW YORK, N.Y. 10038 • (212) 267-2228

A P P E A R A N C E S:

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New York, New York 10019-6618

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WILMER CUTLER & PICKERING, ESQS.
Attorneys for Defendant AMERICAN
BROADCASTING COMPANIES
2445 M Street, N.W.
Washington, D.C. 20037-1420

BY: JOHN PAYTON, ESQ.,
-and-
DENISE ESPOSITO, ESQ.,
of Counsel.

ALSO PRESENT:

RUSSELL M. FINZ, C.L.V.S.,
Action Legal Video, Inc.

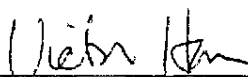
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ERRATA SHEET

Corrections or changes to the deposition testimony of:

Victor Han - Volume 2

Page	Line	Correction
219	20	Change "depository" to "repository"
223	13	Insert "with" between "issue" and "no" and add "of it" after "on the end"
231	22	Change "Is that yes?" to "say yes."
237	20	Change "There is two 15's." to "No, they are both 15."
237	21	Change "is" to "should be"
238	23	Insert "This is what I thought I was handing you last time." before "I've" and change "hand" to "handed"
240	25	Insert "of" between "substance" and "inquiry"
245	13	Change "cigarettes" to "cigarette ingredients"
248	25	Change "you represented" to "you're representing"
257	8	Change "controlled" to "control N"
275	20	Change "believe" to "learn"
296	15	Change "ehre" to "here"
309	9	After "reconstituted" add "tobacco leaf"
315	5	Change "was" to "were"
329	3	Insert "list" between "ingredients" and "that is"
330	19	Change "raised some" to "raises"
344	2	Change "; is that correct?" to "of February, isn't it?"
360	13	Change "I believe he was." to "I don't believe he was."
364	13	Change "other" to "our"
364	17	Change "could" to "can"
378	13	Insert "MS. ROBBINS: I can look at his if I need to."
379	19	Change "pack" to "back"
396	14-15	Change "the instructions" to "discussions"
397	24	Insert "THE WITNESS: It's a combined list."



Victor Han

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ERRATA SHEET

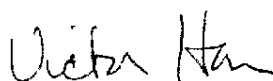
2

Corrections or changes to the deposition testimony of:

Victor Han - Volume 2

<u>Page</u>	<u>Line</u>	<u>Correction</u>
399	19	Insert "also" between "report" and "said"

2058457719



Victor Han

SUPPLEMENTAL ERRATA SHEET

Corrections or changes to the deposition testimony of:

Victor Han

VOLUME 2		
Page	Line	Correction
208	5	"because I haven't..."
215	12	"not have to respond" -- I think I meant to say "I would not have to <u>consult</u> ."
219	17	"they had responded" instead of "they might have"
219	18, 19	"I'm not speaking about this thing specifically" is what I said
219	20,21	"That I can think of" instead of "could"
224	7	In the dept. I work in currently?
234	21	I'm not even sure what a file is in computer talk
237	17,18,19	The transcript is accurate as to what I said on tape. I did not mean to infer, however, that COSH ever sent me <u>anything</u> directly.
237	20	"They are both 15."
259	18	"than" instead of "that"
286	12,13	"It has come up many times" instead of "some of them many times."
296	17	The "A" should be a "Q"
296	20	The "Q" should be a "A"
306	10	"from" instead of "for"
308	16	"which is in fact not the case."

Victor Han

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SUPPLEMENTAL ERRATA SHEET

Corrections or changes to the deposition testimony of:

Victor Han

VOLUME 2 (continued)		
Page	Line	Correction
343	8	"response" instead of "question"
347	16	"No" instead of "not"
359	21	"Andrade" instead of "Andre"
360	13	I believe he wasn't.
363	12	one too many "know " in second sentence.
364	13	"our" instead of "other"
384	4	"Mike Synar" instead of "Mount Sinai"
395	12	"porosity," not "process"
396	15	"discussions I've had," not "instructions."

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Victor Han

ERRATA SHEET

Corrections or changes to the deposition testimony of:

Victor Han - Volume 2

Page	Line	Correction
219	20	Change "depository" to "repository"
223	13	Insert "with" between "issue" and "no" and add "of it" after "on the end"
231	22	Change "Is that yes?" to "say yes."
237	20	Change "There is two 15's." to "No, they are both 15."
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329	3	Insert "list" between "ingredients" and "that is"
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344	2	Change "; is that correct?" to "of February, isn't it?"
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364	13	Change "other" to "our"
364	17	Change "could" to "can"
378	13	Insert "MS. ROBBINS: I can look at his if I need to."
379	19	Change "pack" to "back"
396	14-15	Change "the instructions" to "discussions"
397	24	Insert "THE WITNESS: It's a combined list."

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Victor Han

ERRATA SHEET

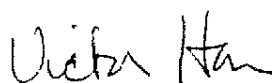
2

Corrections or changes to the deposition testimony of:

Victor Han - Volume 2

<u>Page</u>	<u>Line</u>	<u>Correction</u>
399	19	Insert "also" between "report" and "said"

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Victor Han

SUPPLEMENTAL ERRATA SHEET

Corrections or changes to the deposition testimony of:

Victor Han

VOLUME 2		
Page	Line	Correction
208	5	"because I haven't..."
215	12	"not have to respond" -- I think I meant to say "I would not have to <u>consult</u> ."
219	17	"they had responded" instead of "they might have"
219	18, 19	"I'm not speaking about this thing specifically" is what I said
219	20,21	"That I can think of" instead of "could"
224	7	In the dept. I work in currently?
234	21	I'm not even sure what a file is in computer talk
237	17,18,19	The transcript is accurate as to what I said on tape. I did not mean to infer, however, that COSH ever sent me <u>anything</u> directly.
237	20	"They are both 15."
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296	17	The "A" should be a "Q"
296	20	The "Q" should be a "A"
306	10	"from" instead of "for"
308	16	"which is in fact not the case."

Victor Han

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SUPPLEMENTAL ERRATA SHEET

Corrections or changes to the deposition testimony of:

Victor Han

VOLUME 2 (continued)		
Page	Line	Correction
343	8	"response" instead of "question"
347	16	"No" instead of "not"
359	21	"Andrade" instead of "Andre"
360	13	I believe he wasn't.
363	12	one too many "know " in second sentence.
364	13	"our" instead of "other"
384	4	"Mike Synar" instead of "Mount Sinai"
395	12	"porosity," not "process"
396	15	"discussions I've had," not "instructions."

Victor Han

2058457725

1
2 THE VIDEO OPERATOR: This is the
3 video operator speaking, Russell Finz, of Action
4 Legal Video, 132 Nassau Street, New York, New
5 York.

6 We are here on this day, June 9,
7 1995, at the time continuously recorded on the
8 videotape, at the offices of Proskauer Rose Goetz
9 & Mendelsohn, 1585 Broadway, New York, New York,
10 to continue the videotape deposition of Victor
11 Han, on behalf of the defendants in the Matter
12 are Philip Morris Companies, Incorporated, et
13 al., versus American Broadcasting Companies,
14 Incorporated, et al., in the Circuit Court, for
15 the City of Richmond, Virginia, John Marshall
16 Courts Building, at law number 760CL94X
17 00816-00.

18 This is the beginning of tape No. 4.
19 Will counsel please introduce themselves.

20 MR. PAYTON: John Payton for
21 defendants.

22 MS. ESPOSITO: Denise Esposito for
23 defendants.

24 MS. ROBBINS: Barbara Robbins for
25 plaintiffs.

1
2 THE VIDEO OPERATOR: The witness
3 remains under oath.

4 V I C T O R H A N,
5 resumed, having been previously duly sworn, was
6 examined and testified further as follows:

7 CONTINUED EXAMINATION

8 BY MR. PAYTON:

10:08:52 9 Q. Good morning, Mr. Han.

10 A. Good morning.

10:08:58 11 Q. We ended the last session as we were
12 going over the meetings and calls that were
13 occurring on February 25, 1994 regarding the Day
14 One inquiries and the FDA draft letter.

15 Do you remember where we were when we
16 ended?

17 A. Basically, yes.

10:09:14 18 Q. Did you review your testimony from
19 the prior session, the March 16th?

20 A. I just skimmed it. Yes, I did.

10:09:22 21 Q. You had a transcript and you looked
22 at it?

23 A. Yes.

10:09:24 24 Q. Just briefly, I take it?

25 A. Yes, sir.

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Han

11:09:26

Q. Did you discuss it with anybody?

A. With my attorney.

MS. ROBBINS: He meant other than

counsel.

A. No, sir.

10:09:36

Q. I did mean anyone other than

counsel.

A. No, sir.

10:09:42

Q. Did you review any other depositions

that have been taken in this case, for example

Ms. Daragan or Ms. Carraro?

A. No, sir.

11:09:48

Q. No?

A. No.

10:09:54

Q. Did you discuss the deposition

testimony of anyone else in this case with anyone

other than counsel?

A. No, I did not.

10:10:10

Q. Have you thought about your

testimony?

A. No, sir, I really haven't that much.

10:10:18

Q. I'm simply -- let me ask you a

different question. To the extent you thought at

all about your testimony, is there anything you

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Han

would like to add or change in response to any question I asked you?

A. I'm not -- I'm not prepared to do that now, because haven't read the transcript carefully or thought about it that much.

10:10:48 Q. Do you remember, I think at the beginning of the deposition I asked you about procedures that applied to how Philip Morris would respond to press inquiries when you arrived at Philip Morris?

A. Yes.

10:11:02 Q. And I think you testified that a secretary would talk to the reporter, would then give the information to, I think you said, a junior staff member who would call back and find out what the details were and then you would make some decision about who should then follow up?

A. That's basically correct, yes.

10:11:24 Q. I think you said that with the exception of a guideline for temporary secretaries, you didn't have any written materials?

A. Oh, no, sir, we did not.

MS. ROBBINS: You are talking about

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1 Han

2 setting forth those procedures that he's
3 described?

4 MR. PAYTON: Yes.

10:11:44 5 Q. Did you have any other written
6 materials that you used in connection --

7 A. Regarding these issues?

10:11:50 8 Q. No, that you used in connection with
9 these press inquiries.

10 MS. ROBBINS: That's very broad.

11 MR. PAYTON: It is broad.

10:11:56 12 Q. Did you have written materials that
13 were used, consulted, in connection with press
14 inquiries?

15 A. You mean things that are sort of on
16 the shelf?

10:12:06 17 Q. Yes, exactly.

18 A. We have things on the shelf, but they
19 are not really used to respond to press
20 inquiries.

10:12:16 21 Q. What's the corporate affairs issues
22 handbook?

23 A. I believe it is a document that lays
24 out positions held by the company on certain
25 issues effecting its business.

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Han

Q. Was that used in connection with press inquiries?

MS. ROBBINS: I'm going to object again to the form of the question, because I think your question is far too broad. Do you mean does somebody take that out and look at it before speaking to someone at the press? I don't really understand what you are asking.

Q. Would it be a resource that you would consult in connection with press inquiries?

A. I can only say that I never did, no.

Q. You have a copy, I take it?

A. I believe I did, but I also believe I really never even opened it up.

Q. Do you know if other members of your staff had copies of the corporate affairs issue handbook?

A. I do not know.

Q. Were there other written materials that you would on occasion consult in connection with press inquiries, on the shelf materials, as you've described?

A. Not that I can think of, no.

Q. I want to show you a copy of the

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1 Han

2 corporate affairs issues handbook.

3 (Han Exhibit 11 for
4 identification, document entitled "Corporate
5 Affairs Issues Handbook.")

10:14:56 6 Q. I have just marked as Han Exhibit No.
7 11, a document entitled "Corporate Affairs Issues
8 Handbook." It's a very lengthy document that
9 begins with production number PA 839226, and it
10 goes through PA 839463. Has Philip Morris
11 production number 2023915132, through 2023915370.

12 Do you recognize this as the
13 corporate affairs issues handbook, Mr. Han?

14 A. Yes, I do.

10:15:32 15 Q. I believe that this was produced from
16 your files. Looking at this just briefly, you
17 don't recall looking through this at all?

18 A. Sir, the only time I've -- the only
19 time I've looked through this was with counsel.
20 Other than that, no, I have not.

10:15:56 21 Q. With counsel in preparation for your
22 deposition?

23 A. That's correct.

10:16:10 24 Q. Do you know who prepares this?

25 A. I don't. No, I cannot tell who

2058457732

1 Han

2 prepared this. I don't know.

10:16:38 3 Q. It appears to be, at least in part, a
4 compilation of various positions that Philip
5 Morris takes in connection with various issues.

6 Is that a fair description of what
7 this is?

8 MS. ROBBINS: This is, as you pointed
9 out, a very long document. You can answer his
10 question, Mr. Han, only to the extent that you
11 can. Unless you want to spend a lot of time
12 reading it.

10:17:26 13 Q. I can take you to a page.

14 A. Okay.

10:17:30 15 Q. Let me give you an example. Right in
16 the center of the handbook, it's at the bottom,
17 PA 839363.

18 A. 839363.

10:17:44 19 Q. And the page I've turned to, about a
20 third of the page has a printing, and it says at
21 the top "claims of addiction."

22 A. 839363.

10:18:08 23 Q. Yes. If you want to just take the
24 clip off.

25 MS. ROBBINS: What's the question?

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MANHATTAN REPORTING CORP.

Han

MR. PAYTON: I'm trying to go to what I think is an example of what's in here.

10:18:22 Q. Claims of addiction, if you turn the page, you will see it's summary arguments, and it is responses to the claims of addiction. And I think there are other -- that's the way the document seems to be organized. Issue, response, issue, response.

Is that your understanding of what this document is?

MS. ROBBINS: I will object to the form of the question.

A. My looking at this says that it has -- it's the title -- it has just information regarding addiction. It looks like a compilation of information that is supportive of the company position, yes.

10:19:44 Q. Did issues of addiction come up that you had to deal with when you were the director of communications? Before we get to the Day One story, did issues of addiction come up?

MS. ROBBINS: I object.

MR. PAYTON: Because it was such a probing question?

1 Han

2 MS. ROBBINS: Right. I object to the
3 form of the question. I don't know what you mean
4 did issues come up, John.

10:20:22 5 Q. Did you get inquiries, press
6 inquiries that related to issues of addiction or
7 nicotine when you were the director of
8 communications?

9 A. I think that on some rare occasions
10 people in my department would receive inquiries
11 from the media that related to that -- that
12 related to addiction.

10:20:56 13 Q. But it was rare?

14 A. It was relatively rare, yes.

10:21:00 15 Q. Do you recall any that happened that
16 you received before the Day One inquiries, that
17 would be in February of 1994?

18 A. Are you speaking about me
19 specifically or about my department?

10:21:12 20 Q. You and your department.

21 A. I did not -- I do not have any
22 specific recollection of an inquiry in that
23 regard coming up. But that is not to say, you
24 know, it didn't happen.

10:21:24 25 Q. If you had received one, where would

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MANHATTAN REPORTING CORP.

1 Han
2 you have gone to learn the company's position?
3 What would you have consulted to know the
4 company's position?

5 MS. ROBBINS: There is no
6 foundation. You are assuming that he would have
7 consulted something, John.

10:21:40 8 Q. Would you have had to consult
9 something?

10 A. If I were to respond to a question
11 from a reporter about addiction, I probably would
12 not have to respond, if they are asking me just
13 for comment. If they are asking me for something
14 more substantial than that, since I'm not an
15 expert in that area, or a scientist, I would have
16 to consult with someone.

17 (Han Exhibit 12 for
18 identification, E-mail from Sheila Banks, dated
19 April 9, 1993.)

10:23:26 20 Q. Before I go on, who is Claire
21 Purcell, do you know?

22 A. Yes, Claire Purcell is an employee of
23 ours in Richmond, Virginia.

10:23:38 24 Q. Did she work for your department,
25 communications department?

Han

A. No.

10:23:46 Q. Did you -- how did you know her, or did you know her?

A. I did. I did not know her well until about a year ago when she became part of the group that I'm in now. I believe prior to that, I think she was in the legal department before that.

10:24:04 Q. Do you remember if you knew her in February 1994?

A. Yes, I did know her in February 1994.

10:24:14 Q. When she was part of the legal department?

A. Yes, sir.

10:24:24 Q. I've just marked as Han Exhibit 12, a one-page E-mail that is dated April 9, 1993, and it's from Sheila Banks and it's to a long list of recipients, including yourself.

Do you see this document?

A. Yes, I'm looking at it.

10:24:48 Q. Do you remember this inquiry? It appears to be an inquiry from a radio station, KALX, I think prompted by a San Francisco

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1 Han

2 Chronicle story about advertising directed at
3 hooking young girls on nicotine.

4 Do you see that?

5 A. Yes, I see it.

10:25:10 6 Q. Do you recall this?

7 A. No, sir, I don't.

10:25:20 8 Q. When an inquiry like this comes in,
9 do you have advertising directed towards hooking
10 young girls on nicotine, what would the procedure
11 be to come up with a response to this inquiry?

12 MS. ROBBINS: You are asking Mr. Han
13 what he would do?

14 MR. PAYTON: Yes.

15 A. Procedure? The only procedure really
16 would be to decide who would respond to this
17 call. Obviously this is a charge that has been
18 made against the company in the past and we have
19 responded to it in the past. That's the only
20 procedure.

10:26:10 21 Q. So the issue would be who within your
22 department would respond, would call the reporter
23 back?

24 A. That's correct.

10:26:18 25 Q. And if it is a charge that you have

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MANHATTAN REPORTING CORP.

1 Han

2 responded to in the past, you could consult and
3 determine what the response was in the past and
4 give that response again?

5 A. Consult?

10:26:34 6 Q. Within the department.

7 A. I would just say something, for
8 example, like Sheila, call these people back.
9 Not really consulting.

10:26:44 10 Q. What I don't understand is how you
11 know what the appropriate substantive response is
12 as opposed to who should give it. How do you
13 know what, if this charge has been made in the
14 past, how do you know what the answer to this
15 charge was in the past?

16 A. Because we responded to it. I'm not
17 sure I understand that question.

10:27:10 18 Q. Is that collected somewhere? Is
19 there a --

20 A. No, sir.

10:27:14 21 Q. A folder -- do you keep files on
22 issues like this, like nicotine, is there a
23 nicotine file or an addiction file that you would
24 consult to see what inquiries have come in the
25 past and what the response was in the past?

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Han

A. If I could speak to this specific one?

Q. Sure.

A. The answer would be no, not to my knowledge, anyway. As I said before, this question has come up quite frequently and it's not out of the -- it's not that much out of the ordinary. It's just what we would know.

Q. But there is no written form of what you know?

A. That we consult specifically to deal with the media, no.

Q. Are there --

A. I mean, if individuals have files, they might go back to to look at something because they remembered they might have responded to this in the past, I'm not speaking to this specifically, that might happen. But there is no depository, or anything like that. That I could think of.

(Han Exhibit 13 for identification, document entitled "Philip Morris International Spokesperson's Guide," dated April 1990.)

Han

29:38

Q. Mr. Han, before I go to this exhibit that I've just marked, I want to go back to the corporate affairs issues handbook. You have that right there in front of you. Could you go to a page that is marked PA, it's again close to the center of the book, PA 839353.

MS. ROBBINS: I'm sorry, John, what's the page?

MR. PAYTON: 839353. Our number, PA 839353.

A. Okay.

10:30:26

Q. Has at the top "science fraud." And I directed your attention to the page just so you can see why I'm asking the question, but if you haven't read the page. The question is, are you familiar with this issue, science fraud?

MS. ROBBINS: Take a moment to look at the page.

A. No, I am not.

10:31:14

Q. That's fine.

I've just handed you a document that's been marked Han 13, another very long document, entitled "Philip Morris International Spokesperson's Guide," dated April 1990.

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Han

Production number PA 838484, and it goes through
PA 838770, Philip Morris production number
2023854346 through 2023854632.

Have you seen this document before?

A. No, sir.

Q. Did you know that there was a Philip
Morris International spokesperson's guide?

A. I think -- I recall hearing about it,
yes, sir.

Q. Where did you hear about it?

A. Just in the office.

Q. Do you know if you had a copy of this
spokesperson's guide on your desk or in your
files?

A. I don't know if I had it or not.

Q. Do you know if anyone in your office
had a copy of this?

MS. ROBBINS: Corporate affairs
department? What do you mean in his office?

MR. PAYTON: Communications.

A. I do not know.

Q. Do you know if there is a reason why
Philip Morris International had a spokesperson's
guide and Philip Morris U.S.A. didn't?

MANHATTAN REPORTING CORP

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Han

MS. ROBBINS: Did you establish that
U.S.A. didn't?

Q. Did Philip Morris U.S.A. have a
spokesperson's guide?

A. Such as this one?

Q. Just a spokesperson's guide.

A. No, sir, not that I'm aware of. Not
that I can recall.

Q. Not while you were there?

A. No, sir. Right.

Q. Do you know why Philip Morris
International had a spokesperson's guide and
Philip Morris U.S.A. did not?

A. I do not have specific knowledge of
that, no, sir.

Q. Do you have general knowledge?

A. No, I have -- I can guess, but that's
all. And I prefer not to guess.

MS. ROBBINS: You are not here to
guess, you are just here to tell Mr. Payton what
you know and what you've heard.

Q. Have you ever been told why Philip
Morris U.S.A. doesn't have a spokesperson's
guide?

Han

A. No, sir.

(Han Exhibit 14 for
identification, document, production numbers PA
838417 through PA 838434.)

10:34:56 Q. Mr. Han, you've just been handed
what's been marked Han Exhibit 14. It's a
document that's very dark on its cover. It says
"tobacco issues," and can you read the third
word there?

A. I cannot.

MS. ROBBINS: The second word looks
like it's "issue", no S on the end.

MR. PAYTON: You are right. Tobacco
issue something.

10:35:22 Q. It says "corporate affairs" at the
bottom. It also says "Philip Morris," appears to
say "Philip Morris International" at the top.

Do you see that?

A. Yes.

10:35:38 Q. It's hard to read too, but I believe
that's what it says.

A. Yes.

10:35:42 Q. It's production number PA 838417
through PA 838434, Philip Morris production

2058457744

1 Han

2 number 2023852276 through 2023852293.

3 Have you seen this document before?

4 A. No, sir.

10:36:42 5 Q. When did Ms. Purcell come to work
6 for -- in the department that you worked in?

7 A. In the department I'm working in
8 currently?

10:36:52 9 Q. When you said she eventually came to
10 work for you, that was in worldwide regulatory
11 affairs?

12 A. No, I didn't say she works for me.
13 She came into that department when that
14 department was formed. And I was in that
15 department when that department was formed as
16 well.

10:37:06 17 Q. She doesn't work for you, but she is
18 in the department?

19 A. Yes, sir.

10:37:08 20 Q. And she is in Richmond?

21 A. Yes, sir.

10:37:16 22 Q. Is worldwide regulatory affairs a
23 part of Philip Morris International?

24 A. No, sir.

10:37:22 25 Q. Is it a part of Philip Morris

2058457745

Han

U.S.A.?

A. No, sir.

Q. What is it?

A. Philip Morris Management Corp.

Q. What's the relationship between
Philip Morris Management Corp. and Philip Morris
U.S.A.?

MS. ROBBINS: Are you asking a legal
question?

MR. PAYTON: It's not.

Q. What do you understand the
relationship to be?

A. There is no -- I mean, there is no
formal relationship. There is no formal
relationship. I mean, it's not part of U.S.A.,
it's part of the corporate entity. There are
certainly occasions where we work together,
but...

Q. Who owns Philip Morris Management,
Inc.?

MS. ROBBINS: Who owns it?

MR. PAYTON: Yes.

MS. ROBBINS: I don't understand your
question.

MANHATTAN REPORTING CORP.

2058457746

1 Han

2 A. Maybe I can explain it this way, I'm
3 sorry. Philip Morris Management Corp. is an
4 entity, a corporate entity in the corporation
5 that -- it is a service provider for the
6 corporation.

10:38:34 7 Q. And it's a service provider for which
8 corporation?

9 A. Well, technically for Philip Morris
10 Companies, Inc., and potentially any of its
11 operating companies.

10:38:46 12 Q. So for both Philip Morris U.S.A. and
13 for Philip Morris International it would be a
14 service provider?

15 A. It can be, yes, sir. As well as
16 Miller Beer, perhaps.

10:39:08 17 Q. This document, Han 14, is from
18 Ms. Purcell's files. Do you have any -- do you
19 know why it would be in her files?

20 A. Which? This document?

10:39:18 21 Q. 14. Tobacco issue.

22 A. No, sir, I don't.

10:39:42 23 Q. In your personal files, Mr. Han, you
24 kept individual files by subject matter; is that
25 correct? Do you remember that? For example,
2058457747

1 Han

2 Surgeon General.

3 A. I probably kept it in that manner and
4 other manners.

10:40:02 5 Q. Do you remember other subject matter
6 files that you kept?

7 A. Off the top of my head I'm afraid I
8 just can't.

10:40:16 9 Q. Do you remember if you kept a file on
10 nicotine?

11 A. I do not recall if I did or not. I
12 could have, but I just don't recall.

10:40:22 13 Q. Do you recall if you kept a file on
14 addiction?

15 A. Again, I could have. I don't
16 recall.

10:40:28 17 Q. Do you recall if you kept -- do you
18 recall keeping a file on Surgeon General?

19 A. I believe I kept on file the Surgeon
20 General's -- a Surgeon General's report, if
21 that's what you are talking about.

10:40:40 22 Q. But you don't remember a file into
23 which you placed things that related to Surgeon
24 General? 2058457748

25 A. I don't have a specific recollection

Han

of that, I'm sorry.

10:40:50 Q. What about a file entitled
"Henningfield"?

A. I believe I had a file that contained
some of his studies.

10:41:04 Q. Who is Henningfield?

A. He is a scientist with the, I
believe, the National Cancer Institute.

10:41:20 Q. Do you recall keeping a file entitled
"Jameson Study"?

A. I don't recall having a file on
Jameson's study called the Jameson Study. But I
could have.

10:41:42 Q. Files that you kept, like the Surgeon
General and others, were those files that your
staff had access to or were they just your
personal files?

A. I don't know the answer to that. If
you ask if my staff had access to my files, I
would say that except for human resources
documents relating to my staff specifically, my
files were pretty much available to anybody who
wanted to go into them.

10:42:28 Q. After your first day of deposition,

2058457749

MANHATTAN REPORTING CORP.

Han

March 16 of this year, did you think of any documents that were in your files that came to mind but had not been produced?

A. Sir, I didn't even think about it.

10:42:52 Q. Did you review your files, any of your personal files, in connection with preparing for your deposition in March?

MS. ROBBINS: His first day of deposition?

MR. PAYTON: His first day of deposition.

MS. ROBBINS: You are asking about documents he looked at in preparation or are you talking about did he do a separate file search?

MR. PAYTON: That's fine.

A. On my own you mean?

10:43:12 Q. Have you looked at any of your files?

A. No, sir.

10:43:14 Q. Have you since your deposition on March 16 looked at any of your files?

A. Relating to ABC?

10:43:20 Q. Yes.

A. The only time was recently when I went into electronic mail. Aside from that, no.

2058457750

1 Han

2 MS. ROBBINS: Were you asking the
3 question with respect to preparing for his
4 deposition, or generally?

5 MR. PAYTON: Generally.

10:43:38 6 Q. And you went into electronic mail to
7 look at some electronic mail messages?

8 A. I was asked to look through my -- not
9 electronic mail, I'm sorry, I misspoke, in my
10 computer to see if there was a draft statement,
11 ABC statement. That was about two weeks ago.

10:43:58 12 Q. Did you find one?

13 A. I found a number of documents, one of
14 which could be an earlier draft of the
15 statement. But I can't be sure that it was.

10:44:14 16 Q. When you say you found a number of
17 documents, what were the other documents you
18 found?

19 A. I don't really remember what they
20 were. I just printed them out and gave them to
21 my attorneys.

22 MS. ROBBINS: I will be helpful here,
23 John. They were sent to me and I produced to you
24 the only page that was printed out that had not
25 previously been produced.

2058457751

1 Han

2 MR. PAYTON: Okay.

3 (Han Exhibit 15 for
4 identification, document, production number PB
5 118607.)

10:45:28 6 Q. I've just handed you, Mr. Han, what's
7 been marked Han 15, it's a single page, has
8 production number PB 118607, Philip Morris number
9 2031361000.

10 Is this the page that you were just
11 referring to?

12 A. Yes.

10:45:48 13 Q. That may be or may not be a prior
14 draft of what was produced by Philip Morris on
15 February 25, 1994? That's the date of the
16 statement.

17 A. If you are referring to the
18 statement, yes, sir.

10:46:16 19 Q. I had asked you in the first day of
20 your deposition if there was a prior version of
21 that statement, and I believe you said yes, there
22 was. Is that yes?

23 A. Excuse me?

10:46:32 24 Q. You have to say yes.

25 MS. ROBBINS: You have to answer

2058457752

Han

audibly.

A. Yes..

10:46:40 Q. I believe I also asked you if it was a specific -- did that statement contain specific responses to the three numbered questions that were in the E-mail that you saw from Day One?

MS. ROBBINS: Did the draft?

MR. PAYTON: Yes.

A. Yes.

10:46:52 Q. And I believe the answer was yes, the prior statement did contain specific responses to the three queries.

A. I can't recall whether I was specific to the three queries, but to the point that it -- there was more specific information in the draft, yes.

10:47:14 Q. Was this a detailed draft?

MS. ROBBINS: The draft -- wait a minute. The draft that he was describing at the time?

MR. PAYTON: Yes.

MS. ROBBINS: I object to the form of the question. I don't know how -- one person's detail is not necessarily another's.

2058457753

MANHATTAN REPORTING CORP.

Han

MR. PAYTON: That's fair enough.

10:47:30 Q. Let me ask what you do remember about
it. Was the draft that was -- that contained
specific responses to the three queries, was it a
multiple page draft?

A. I don't believe so. I don't recall
that.

10:47:52 Q. You don't remember one way or the
other?

A. I don't remember, no.

10:48:32 Q. You said that you searched your Word
Perfect files?

A. Well, my computer files.

10:48:38 Q. Your computer files. Are they Word
Perfect files?

A. I don't know.

10:48:40 Q. You don't know.

Are your computer files that relate
to the communications department on your present
computer?

A. I'm sorry, could you ask me that
again?

10:48:58 Q. How did you go do this search? Were
they on your present computer?

2058457754

Han

A. In my present computer, right.

10:49:04 Q. You kept your -- are they on a
central database, central hard drive?

A. I have no idea.

10:49:10 Q. But you could search through your own
computer?

A. Right.

10:49:18 Q. Do you know if that search had been
done before?

A. Yes, sir.

10:49:22 Q. By you?

A. No, sir.

10:49:24 Q. Someone else had done the search
before?

A. Yes, sir.

10:49:28 Q. And they had missed this file?

A. I don't --

MS. ROBBINS: Go ahead.

A. I don't know. If you are speaking
about a specific file -- I'm not even sure the
"file" is in computer talk.

10:49:48 Q. I'm talking about the Exhibit 15 in
front of you.

A. This document?

2058457755

Han

10:49:50

Q. Yes.

A. I don't know whether it was missed or not. I do not know.

MS. ROBBINS: I will say for the record it was not previously produced. But he can't really tell you anything about the production process.

MR. PAYTON: Okay.

10:50:04

Q. You have, Mr. Han, you have never seen what was produced from your files in this case?

MS. ROBBINS: The universe of all documents that were produced from his files?

MR. PAYTON: Yes.

10:50:20

Q. Have you seen what has been produced from your files in this case to defendants?

A. I have been shown some of the documents by counsel.

10:50:26

Q. But you don't know if you've seen them all or not?

A. No, I do not know.

(Han Exhibit 16 for identification, letter to the Honorable John Dingell from Fran Du Melle, Scott Ballin and Alan

2058457756

1 Han

2 Davis, dated October 21, 1991.)

10:51:50 3 Q. Mr. Han, you have just been handed
4 what's been marked Han 16?

5 A. On mine it says 15.

10:52:24 6 Q. Han 15, sorry. A two-page letter
7 dated October 21, 1991, from Fran Du Melle, it's
8 D-u, new word, M-e-l-l-e, Scott Ballin,
9 B-a-l-l-i-n, and Alan Davis, to the Honorable
10 John Dingell. Production number PA 839522
11 through PA 839523. Philip Morris production
12 number 2023918443 through 2023918444.

13 Do you recognize this, Mr. Han?

14 A. No, sir.

10:52:44 15 Q. You don't remember receiving this?

16 A. No, sir. That's not to say that I
17 didn't. I don't remember it, I don't recognize
18 it.

19 MS. ROBBINS: It is a number of years
20 old. It's October 21, 1991.

21 MR. PAYTON: Yes.

10:53:06 22 Q. I will represent to you, Mr. Han,
23 that from the production logs that we have, this
24 was produced from your files.

25 A. It could very well have been.

MANHATTAN REPORTING CORP.

2058457757

Han

Q. Do you remember just generally receiving correspondence from the Coalition on Smoking or Health, which is the letterhead of this letter?

A. Generally receiving?

Q. Yes, do you remember receiving any correspondence or copies of correspondence from the Coalition on Smoking or Health?

MS. ROBBINS: Wait a minute. This letter is obviously not written to him. So are you asking did he receive in some form of distribution letters from this organization?

MR. PAYTON: No, I said receiving any correspondence or copies of correspondence.

MS. ROBBINS: I'm sorry.

A. I think that I have received some copies of correspondence from the Coalition on Smoking or Health in the past. I believe so.

THE WITNESS: There is two 15s.

MS. ROBBINS: The coalition letter is 16.

(Han Exhibit 17 for identification, document entitled "Media Affairs Call Report, 2/18/94 to 2/25/94.")

2058457758

Han

10:56:24 Q. Mr. Han, I now want to go to a specific point in time. Let's go to February of 1994, where we spent a lot of time in March talking about the contacts between Day One and Philip Morris.

I've just handed you a document that's been marked Han 17, a four-page document that is entitled "Media Affairs Call Report, 2/18/94 to 2/25/94." It has production number PA 427014 through PA 427017. Philip Morris numbers 2024015420 through 2024015423.

Do you recognize this as a report that was routinely prepared by your office?

A. Yes, sir.

10:58:08 Q. If you go to the -- this was a false step. I do want to ask you some questions about that, just set it aside. I thought I was giving you something different than what I gave you.

(Han Exhibit 18 for identification, document entitled "Media Affairs Call Report, 1/26/94 through 2/4/94.")

10:58:56 Q. I've just hand you what's been marked Han Exhibit 18, a document, three-page document, headed "Media Affairs Call Report, 1/26/94,

2058457759

1 Han

2 through 2/4/94," production number PA 427083
3 through PA 427085. Philip Morris number
4 2024015528 through 2024015530.

5 Do you recognize this as a report
6 that your office prepared regularly -- weekly?

7 A. Yes, sir.

10:59:40 8 Q. Can you go to the third page. Are
9 you there, Mr. Han? .

10 A. Yes, sir.

10:59:44 11 Q. If you go down to the bottom, there
12 is an entry for 2/4.

13 Do you see that?

14 A. Yes, sir.

10:59:54 15 Q. I believe we established last time,
16 and I think there is an E-mail to this effect,
17 that February 4 was the first contact you
18 received from Day One?

19 MS. ROBBINS: Him meaning Philip
20 Morris received?

21 MR. PAYTON: Yes.

11:00:08 22 Q. Do you remember that?

23 A. Generally speaking, yes. I mean --
24 yes, sir.

11:00:16 25 Q. I have the collection of E-mails from
2058457760

MANHATTAN REPORTING CORP.

1 Han

2 your prior deposition that just contains an
3 E-mail that shows that the first E-mail is dated
4 2/4/94. Shirley Arnott got the call.

5 A. I have a recollection of the E-mail.
6 I just don't have a recollection at all about the
7 dates.

11:00:36 8 Q. This is how that contact is logged in
9 the media affairs call report; is that right?
10 That's what I'm looking at, the item at the
11 bottom of page 3 of Exhibit 18.

12 A. I would be making an assumption that
13 it is.

14 MS. ROBBINS: There is no testimony
15 that Mr. Han made that entry.

16 MR. PAYTON: There is no testimony
17 that Mr. Han made this entry.

11:00:58 18 Q. This is a routine report that's done?

19 A. Yes, sir.

11:01:02 20 Q. And it logs media contacts, media
21 calls?

22 A. Media calls, yes, sir.

11:01:06 23 Q. This logs the call as ABC Day One
24 News. And then I guess the next column is, I
25 guess, the substance the inquiry. And the next

2058457761

1 Han

2 column would be the status.

3 A. Action taken, right.

11:01:20 4 Q. Action taken.

5 A. That's what it says on the first
6 page.

7 MS. ROBBINS: There is no title that
8 I see for the second column on this document.

9 MR. PAYTON: There is, on the very
10 first page, if you look, it says "date," then
11 "media request," and then "action taken."

12 MS. ROBBINS: Right. Okay.

11:01:44 13 Q. So under "request," the item contains
14 the entry "information on nicotine and other
15 cigarette ingredients levels."

16 Do you see that?

17 A. Yes, sir.

11:01:56 18 Q. Do you know who did prepare this
19 entry in the media affairs call report?

20 A. No, sir.

11:02:00 21 Q. Who would have? Is there a
22 procedure, who would have been responsible for
23 doing this?

24 A. It would have been supervised by
25 Karen.

2058457762

1 Han

11:02:12 2 Q. Karen Daragan?

3 A. Yes, sir. As to exactly who keyed it
4 in, I'm not sure.

11:02:26 5 Q. Do you remember that as of the 4th
6 you knew, Philip Morris knew, that Day One was
7 focusing on nicotine and cigarette ingredient
8 levels?

9 MS. ROBBINS: Well --

11:02:42 10 Q. Does this refresh your recollection?

11 MS. ROBBINS: I object to your
12 question. I don't think that what this does is
13 reflect what your question suggests.

14 A. Could you ask me that again?

11:02:56 15 Q. Sure. Do you remember, today, do you
16 remember that as of February 4, ABC Day One was
17 asking about nicotine and other cigarette
18 ingredient levels?

19 MS. ROBBINS: Are you asking does
20 this refresh his recollection?

21 MR. PAYTON: Yes.

22 A. This doesn't really reflect my
23 recollection, this specific entry.

11:03:36 24 Q. Does it refresh your recollection?

25 A. It does not. Based on the E-mails

2058457762A

Han

that I have reviewed with counsel, I would say that yes, this is basically the general subject matter.

MS. ROBBINS: There is a February 4th E-mail, as you've pointed out, John, that gives the entirety of the conversation as reflected there. And you've picked out one sentence. I think you are trying to suggest that that was the focus. I think the whole E-mail needs to be read.

MR. PAYTON: All I'm doing, I believe we went over the E-mails, and we may go back to a few of the E-mails.

MS. ROBBINS: I wasn't suggesting that.

11:04:28 Q. All I'm doing, Mr. Han, is, we went over, I believe, all the E-mails in the February '94 period. And I'm now going over other documents that were produced in connection with the contacts between Day One and Philip Morris in in same time frame.

A. Right.

11:04:44 Q. And the media affairs call report is a report that's prepared routinely?

2058457763

1 Han

2 A. Yes, sir.

11:04:50 3 Q. In response to requests from media?

4 A. Correct.

5 (Han Exhibit 18 for
6 identification, document entitled "Media Affairs
7 Call Report, 2/4/94 through 2/11/94.")

11:05:24 8 Q. I've just handed you what's been
9 marked Han Exhibit 19, another media affairs call
10 report, this one is dated 2/4/94 through
11 2/11/94. Has production number PA 427067 through
12 PA 427069. Philip Morris production number
13 2024015493 through 2024015495.

14 Do you recognize this?

15 A. No, sir.

11:05:56 16 Q. This is the media affairs call report
17 for the next week; is that right?

18 A. Right.

11:06:12 19 Q. Han 18 was for the week January 26th
20 through February 4, and this is February 4
21 through February 11.

22 A. I see that.

11:06:20 23 Q. And there was a section in the prior
24 exhibit, that's 18, if you just take a look at
25 it, on the first page, that has highlights and

2058457764

1 Han

2 there are no entries for highlights, it's been
3 redacted.

4 Do you see that?

5 A. Yes, sir.

11:06:34 6 Q. If we go to Han 19, for the week of
7 February 4 through February 11, there is again
8 highlights section, and we have two highlights
9 that are included.

10 Do you see that?

11 A. Yes, sir.

11:06:52 12 Q. The highlight reads "ABC's Day One is
13 doing a piece on cigarettes and nicotine
14 addiction. They have spoken to the anti's and
15 R.J.R. R.J.R. is considering offering up to one
16 of its scientists that is heavily published on
17 the subject. They have asked PM for its
18 'corporate perspective.' We will decline."

19 Does this refresh your recollection
20 as to what was discussed and decided on February
21 4th, or the week of February 4th?

22 MS. ROBBINS: I object to your
23 question.

24 A. Does it refresh my memory about --

11:07:30 25 Q. Do you remember deciding that you

2058457765

1 Han

2 would decline the request from Day One?

3 A. I do not have a recollection, no sir.

11:07:42 4 Q. By the way, did you review the media
5 affairs call reports in preparation for your
6 deposition either in March or for today?

7 A. I don't believe I did it in March. I
8 was shown some by counsel.

11:07:54 9 Q. Were you shown this one?

10 A. I don't believe so.

11:08:10 11 Q. Have I properly characterized this,
12 that as of February 4 Philip Morris had decided
13 to decline?

14 MS. ROBBINS: Are you basing that on
15 this document?

16 MR. PAYTON: Yes. "We will
17 decline."

18 MS. ROBBINS: He is asking you a
19 question, specific question about your state of
20 knowledge; correct?

21 MR. PAYTON: Yes.

11:08:28 22 Q. This reads, "they have asked," that
23 is, Day One, "have asked Philip Morris for its
24 'corporate perspective.' We will decline."

25 A. And you are asking me?

2058457766

MANHATTAN REPORTING CORP.

Han

11:08:40

Q. Does this reflect a decision to not provide information or corporate perspective to Day One?

MS. ROBBINS: But again, the date of the -- I'm quarreling with you, John, because the highlights reflect a longer period of time than you are suggesting. The highlights go from 2/4/94 to 2/11/94.

MR. PAYTON: That's fine, Barbara.

11:09:04

Q. I will come back to that question, Mr. Han.

Can you go to the bottom of the page?

A. Yes.

11:09:10

Q. Do you see the entry for 2/4?

A. Yes.

11:09:10

Q. February 4?

A. Um-hum.

11:09:14

Q. And under "media," it says "ABC Day One." Request reads "PM view on nicotine addiction and why we manufacture tobacco products."

Do you see that?

A. Yes, sir.

11:09:24

Q. And under "action taken," it says

2058457767

Han

"will decline. Pending for more
information/discussion."

Do you see that?

A. Yes, sir.

11:09:30 Q. Does that refresh your recollection
as to deciding to decline the request with
respect to a corporate perspective on these
issues, that is, nicotine addiction?

A. I'm afraid not, sir.

11:09:52 Q. Am I correct that this media affairs
call report indicates that there was a decision
to decline that request from Day One?

MS. ROBBINS: Just hold it a minute.
The "will decline" in the column that you've
pointed to doesn't say what it's declining. The
previous column says "PM view on nicotine
addiction and why we manufacture tobacco
products," then it says "will decline."

If you go back and look at the
E-mails, these are one sentence little capsules
about things that don't necessarily relate to
each other on this sheet. If you go back and
look at the E-mails, you will see that the record
is somewhat different from what you represented.

2058457768

Han

11:10:32

1

2

3

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5

6

Q. Mr. Han, do I understand that the E-mails are essentially just reflecting what the request was, someone just writes down what they learned on a telephone conversation?

A. Sometimes.

11:10:44

7

8

9

10

11

12

Q. And the media affairs call report actually has the request, identifies the media that is requesting, and then lists the action taken in response to the request. That's what it does, right? -

A. That's what it says here, yes.

11:11:02

13

14

15

16

17

18

Q. And this media affairs call report for February 4 through February 11 indicates that the action that was taken in response to the Day One request was "we will decline."

MS. ROBBINS: There is no request in that column.

19

20

MR. PAYTON: There is in the highlights.

11:11:20

21

22

23

24

25

Q. Do you see that, Mr. Han?

MS. ROBBINS: You are moving all over the document. I suggest that Mr. Han -- I resent this. I suggest that Mr. Han be shown his February 7th E-mail and be able to read it.

2058457769

1 Han

2 Since the testimony here has been that these
3 media affairs reports attempt to put into one
4 sentence the information provided in a much
5 lengthier E-mail. I ask you to put in front of
6 him his February 7th E-mail and let him look at
7 it, and then perhaps you can ask him the
8 questions you want to ask him.

9 MR. PAYTON: I will show him the
10 February 7th. I'm on February 4 right now. But
11 I will show him his February 7th.

12 MS. ROBBINS: That's fine too.

11:11:50 13 Q. On February 4, does it appear from
14 this document that Philip Morris had decided to
15 decline the Day One request for its corporate
16 perspective?

17 A. The highlight seems to indicate that
18 specific to the corporate perspective question.
19 But I -- yes, it seems to indicate that. But
20 down below it talks about pending for more
21 information discussion. So I'm not too sure
22 exactly what this means.

23 MS. ROBBINS: Do you want to show him
24 the February 7th E-mail?

25 MR. PAYTON: I'm coming to it,

2058457770

MANHATTAN REPORTING CORP.

Han

Barbara.

11:13:06 Q. Mr. Han, I've just handed you the set of exhibits that we marked on March 16th. And if you will look at Exhibit 2, that is the collection of E-mails.

A. I see. Okay.

11:13:52 Q. If you turn to what's marked as page 4 of that Exhibit 2, it's up on the right-hand corner, page 4, do you see that?

A. Yes, sir.

11:14:04 Q. And then if you look at the E-mail that begins sort of in the middle of the page, do you see that? It's from Han, Vic on Monday, February 7, 1994, 11:26 a.m., starts at the bottom?

A. 11:26 a.m.

11:14:22 Q. Yes.

A. Yes.

11:14:22 Q. This is your E-mail to Ellen Merlo and Steve Parrish, copied to Tara Carraro and Karen Daragan.

A. Um-hum.

11:14:28 Q. You remember reviewing this?

A. Yes, sir.

2058457771

Han

11:14:34 Q. The first sentence says "at this point we are of the mind to provide comment over the phone and not put anyone on the show."

Do you see that?

A. Yes, sir.

11:14:50 Q. Who made that decision? Who is the "we"?

A. I do not know who the "we" are. I'm not necessarily certain this is a decision.

11:14:58 Q. It may not be a decision, it's just -- what is it, then?

A. Consideration.

11:15:04 Q. Do you remember what went into that consideration?

A. No, sir, I do not remember what went into this, except for what is stated in the E-mail.

11:15:46 Q. Let me go on down to further in this same first paragraph. It says, the next to last sentence, "however, since Day One said it would happy to discuss program further with others in PM, Karen will call back for more info."

Do you see that?

A. Yes, sir.

2058457772

Han

Q. Karen Daragan that's referring to?

A. Yes, sir.

Q. Do you know why Ms. Daragan didn't call back until the 14th of February?

A. No, sir.

Q. Did you call?

A. No, sir.

Q. The last sentence of that same paragraph says "if we want to pump for more, I will call after that."

Do you see that?

A. Yes, sir.

Q. Did you ever call?

A. No, sir.

Q. Why not?

A. I do not know.

Q. Since we are in the prior exhibits, why don't we go to Exhibit 3 in the same collection you have. And this is the pages from your notebook.

Do you see that?

A. Um-hum.

Q. And could you go in to Exhibit 3 to PA 426668. It's about six pages from the end.

2058457773

MANHATTAN REPORTING CORP.

Han

The page I'm looking at has as its first writing the word "redacted" at the top, sort of.

A. Yes, sir.

Q. And the next thing says "NBC," do you see that?

A. Yes.

Q. Just so we are on the same page. This is your handwriting?

A. Yes, sir. Well, not the -- right in the center, yes.

Q. The handwriting is all yours?

A. In the center of the page. Not the stuff below.

Q. Okay.

A. Right.

Q. The stuff below that says "Vic, I set up a meeting," that's someone else's writing?

A. That's correct.

Q. Do you know what this is? Is this a Post-it that you put into your notebook or something?

A. I don't -- I don't know what it is. I mean, I think I know what it refers to, but I

2058457774

MANHATTAN REPORTING CORP.

1 Han

2 don't know what it is.

11:18:36 3 Q. Do you know whose writing that is?

4 A. I believe it is my secretary's
5 writing.

11:18:38 6 Q. Who is your secretary?

7 A. Her name is Mary Ellen Moore.

11:18:50 8 Q. Let's just look at that little note
9 at the bottom, the one that says "Vic," then it
10 says "C-3" in the center printed, C-3.

11 A. Yes.

11:18:58 12 Q. Do you know what that is?

13 A. That's stamped on documents that have
14 been collected.

11:19:06 15 Q. Do you know -- it was stamped on
16 documents that have been collected?

17 MS. ROBBINS: The next page, John,
18 which has the same note.

19 MR. PAYTON: Without a C-3.

20 MS. ROBBINS: Doesn't have a C-3.

11:19:20 21 Q. If you turn the page to PA 426669.
22 Do you see that, Mr. Han?

23 A. Yes.

11:19:24 24 Q. The question is, do you know what the
25 C-3 is?

2058457775

Han

A. All I can say is that there are documents in our office that have this stamp. And my understanding is that means they have been collected in some discovery.

11:19:36 Q. Focusing on that note, it says "Vic," then it has a date 2/23. Do you see that?

A. Yes, sir.

11:19:44 Q. "I set up a meeting with Jeff Falvo for Thursday, 2/24, at 9 a.m. in your office."

A. Yes.

11:19:52 Q. So the initials are ME?

A. Yes, sir.

11:19:56 Q. Who is Jeff Falvo?

A. I believe he was in the planning department at Philip Morris U.S.A. Or is.

11:20:08 Q. What was this meeting about?

A. My recollection of the meeting had to do with, I believe, a Q and A book for the upcoming annual meeting.

11:20:58 Q. Did this meeting relate in any way to the Day One inquiries?

A. No, sir. Not that I recall.

11:21:06 Q. Looking at the notes that are in your handwriting on the page. Where it says "NBC."

2058457776

1 Han

2 Do you see that?

3 A. Yes.

11:21:16 4 Q. Can you read it?

5 A. "NBC - drug? Levels?" Yes, I can
6 read it.

11:21:26 7 Q. What's the next sentence says?

8 A. "If controlled, isn't it a drug."

11:21:30 9 Q. That's referring to nicotine?

10 A. I believe so.

11 Below that the word "uniformity."

12 Below that "ABC all over Durbin comment, Campbell
13 letter."

21:40 14 Q. Do you know what the reference to
15 Durbin comment and Campbell letter is?

16 A. Not with much specificity. I recall
17 that Durbin made some public comment on --

11:21:58 18 Q. Durbin is Congressman Durbin?

19 A. I believe so.

20 I can't with certainty say what that
21 is about. I can make certain assumptions.

11:22:08 22 Q. Do you remember what the Campbell
23 letter is referring to?

24 A. I can only make an assumption as to
25 what it's referring to, but I cannot say that I

2058457777

MANHATTAN REPORTING CORP.

1 Han

2 know exactly what it's referring to.

11:22:20 3 Q. Was the subject related to nicotine?

4 A. You mean in my assumption?

11:22:30 5 Q. No. If I say this issue all over
6 Durbin comment.

7 A. You are back up there, I'm sorry.

11:22:36 8 Q. "All over Durbin comment, Campbell
9 letter."

10 A. Right. Would it relate to nicotine?

11:22:40 11 Q. Yes.

12 MS. ROBBINS: Are you asking whether
13 it relates to the language just before above it,
14 where it says "if controlled, nicotine."

15 MR. PAYTON: No, I'm asking a general
16 question.

17 MS. ROBBINS: You are asking a
18 general question?

19 MR. PAYTON: Yes.

20 A. It's my belief that it is.

11:23:38 21 Q. Go to the same set of notes, just go
22 to page PA 426675. Are you there? This is a
23 page that has as its first handwriting, I believe
24 it's your handwriting, "Maura Payne Ellis."

25 Do you see that?

2058457778

Han

A. Yes.

11:24:00 Q. I'm correct that this is your
handwriting?

A. Yes, sir.

11:24:04 Q. It says "Maura Payne Ellis," then it
says "Durbin comment."

Do you see that?

A. Yes, sir.

11:24:08 Q. Can you read the next writing in
that?

A. "This seems to be an attempt to bring
by prohibition. This time with cigarettes. The
fact is there is less nicotine in the finished
cigarette than exists naturally in the
unprocessed leaf." Crossed out, "over the last X
blank years nicotine levels in cigarettes have
gone down by more than blank percent to
accommodate the preferences of consumers."

11:24:40 Q. Does this refresh your recollection
as to what the Durbin comment was about?

A. No, sir.

11:24:46 Q. Do you remember why this note is in
here?

A. My --

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Han

11:24:50 Q. Yes, your handwritten note.

A. No, sir.

11:24:54 Q. Do you remember when this would have occurred?

A. No, sir. There is the C-3 again.

MS. ROBBINS: Is this a time to take a bathroom break, John?

MR. PAYTON: Yes.

THE VIDEO OPERATOR: It is 11:25, and we are off the record.

(A recess was taken.)

THE VIDEO OPERATOR: It is 11:48, and we are back on the record.

BY MR. PAYTON:

11:48:28 Q. Mr. Han, I'm about to turn to February 25, where we left off in March. But before I do that, I want to ask you a few questions just so I can sort of place your involvement sort of on a time line. So I don't want to go into any detail, but I want to know where you come in and out of the time line here.

On February 25 you are involved in working on a statement that's issued. I want to go to the next event, which I understand there is

2058457780

1 Han

2 a statement on the 28th of February. I'm not
3 asking you questions yet. There is a statement
4 on the 28th of February, and I believe you played
5 a role in developing that statement as well.

6 Am I right?

7 A. I believe so. I would feel more
8 comfortable if I saw the statement just to be a
9 hundred percent sure we are talking about the
10 same thing.

11:49:20 11 Q. This is really just so I can see
12 what's happening out there.

13 A. I understand.

11:49:26 14 Q. There is a March 1 statement. Do you
15 recall a March 1 statement?

16 A. Yes, sir.

11:49:30 17 Q. And I believe you played a role in
18 that as well?

19 A. I think so, yes, sir.

11:49:34 20 Q. There is also, or maybe they are the
21 same thing, there are statements in response to
22 the FDA letter which came out on the 25th of
23 February. I think there is a common statement
24 that responds to the FDA and/or ABC Day One, I
25 think you played a role in that?

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Han

A. That one I'm not familiar -- I'm not sure I know what you are talking about on that one.

11:50:02 Q. There is also a letter that is sent by the CEO, William Campbell, and I believe that's a March 2nd letter that goes to members of Congress?

A. I'm not certain of dates, I know the Campbell -- I'm sorry. A letter with Mr. Campbell's signature was sent to members of Congress.

50:22 Q. Did you play a role in drafting that?

A. No, sir.

11:50:26 Q. Did you play a role in communications back and forth with Congress?

A. No, sir.

11:50:34 Q. For example, there appear to be some communications with Congressman Bliley later on in the chronology. Did you play a role in that?

A. No, sir.

11:50:46 Q. There are also some statements that appear to be prepared for Steve Parrish in March. Did you play a role in drafting --

A. I would have to see what you are

2058457782

Han

1 talking about.

11:50:58 3 Q. Some you did, some you didn't?

4 A. Well, I don't -- I don't know.

5 Which -- that's right. Some I might
6 have, some I would not have.

11:51:06 7 Q. There are also some communications
8 after February 25 with the FDA, and specifically
9 in connection with a visit by FDA personnel to
10 Philip Morris.

11 Did you play a role in that?

12 A. No, sir.

11:51:26 13 Q. Did you play a role in an exchange of
14 letters, an exchange of letters that actually
15 takes place in The New York Times, between
16 Commissioner Kessler and Mr. Campbell?

17 A. No, sir.

11:51:36 18 Q. Do you know what I'm referring to
19 there, there is a letter to the editor that I
20 think they both sent in to the Times?

21 A. I am not -- I know -- I mean, I
22 recall the letter being sent into the Times by
23 us. I do not have any recollection of the letter
24 from Kessler to the Times.

25 MS. ROBBINS: I don't either, John.

2058457783

1 Han

2 MR. PAYTON: I believe you are
3 right.

11:52:02 4 Q. There is a letter that Mr. Campbell
5 sends in to the Times and in response to that
6 letter Mr. Kessler writes Mr. Campbell a letter.
7 You are right. You said it correctly.

8 A. I didn't play a role in that either.

11:52:14 9 Q. And Campbell then responds to
10 Kessler. You didn't play a role in that either?

11 A. No, sir.

11:52:22 12 Q. Let's go back to February 25. You
13 have the exhibits in front of you, and by the
14 way, if at any point you think that in order to
15 refresh your recollection you need to consult any
16 of the documents that we have gone over or any
17 other document that you think I might have here,
18 just let me know.

19 A. Thank you.

11:52:44 20 Q. We will try to make that available.
21 In front of you, among the exhibits
22 that have already been marked, is I think Han
23 10. Do you have that?

24 MS. ROBBINS: It would be under tab
25 10.

2058457784

Han

11:53:06 Q. Tab 10. Is an exhibit that I believe we were talking about just briefly as we ended the deposition last time. Let me just tell you what this is again. It is a fax dated February 25, 1994, to you from David Niccoli and it attaches a draft letter, a letter on FDA stationery to Scott Ballin that is unsigned. And it also has a transcription, someone has retyped the entire letter.

A. Right.

11:53:50 Q. I believe it is a Ms. Dawson that has retyped the letter.

Have I correctly described what's here?

A. Yes. I don't know who retyped the letter, but those are the documents that I have in front of me too.

11:54:04 Q. If you go to the second page, you will see what I'm saying. The message on the fax sheet on the second page indicates, just read it, "attached is the FDA letter that B. Dawson received."

That's Brendan Dawson, that's who?

A. Brennan Dawson.

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Han

11:54:20 Q. "There is also attached a clean version which she retyped."

A. Retyped.

11:54:26 Q. And that's signed David, that's David Reams, who is a lawyer at Covington & Burling.

A. Yes, sir.

11:54:34 Q. You had testified that it was not unusual for Philip Morris and yourself to receive documents before they were released.

Do you remember that?

MS. ROBBINS: Where specifically are you pointing to in his testimony, John?

MR. PAYTON: 195.

11:54:56 Q. Do you recall testifying to that?

MS. ROBBINS: What he said is it's not that unusual.

11:55:02 Q. Do you recall testifying that it's not that unusual?

A. I remember that.

11:55:06 Q. For Philip Morris to receive documents before they were released; right?

A. In general, yes, sir.

11:55:16 Q. And I think you also said that with respect to the FDA, this is the only draft letter

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1 Han

2 from the FDA or Commissioner Kessler that you had
3 seen before it was assigned or sent out.

4 A. I don't -- I mean, I don't know if I
5 said that or not.

11:55:36 6 Q. Had you seen other draft letters from
7 the FDA?

8 A. No, sir.

11:55:40 9 Q. Do you know how Philip Morris
10 obtained this letter or how Covington & Burling
11 obtained this letter?

12 A. No, sir.

13 MS. ROBBINS: Doesn't the fax cover
14 sheet say how it was obtained?

15 MR. PAYTON: It just says received.
16 It does not say how it was retained.

17 MS. ROBBINS: "Attached is the FDA
18 letter that Brennan Dawson received."

19 MR. PAYTON: That's right.

20 MS. ROBBINS: You don't take that to
21 mean that this letter came from Brennan Dawson?

11:56:10 22 Q. Who is Brennan Dawson?

23 A. Brennan Dawson is a vice president of
24 the Tobacco Institute.

1 56:16 25 Q. Do you know how Brennan Dawson

2058457787

1 Han

2 received this letter?

3 A. No, sir.

11:56:42 4 Q. You've testified that on February 25,
5 that's a Friday, there were meetings,
6 discussions, about the response to the inquiries
7 from Day One.

8 Do you recall that?

9 A. Yes, sir.

11:57:04 10 Q. At that same time, there was
11 discussion about this draft FDA letter.

12 Do you recall that?

13 MS. ROBBINS: Just answer yes or no.

14 A. This is the Friday, yes.

11:57:36 15 Q. Was there a relationship between the
16 Day One inquiries and the FDA letter?

17 MS. ROBBINS: I will object to the
18 form of your question.

11:57:46 19 Q. Do you know what I mean?

20 A. A relationship? Could you just say
21 it again?

11:57:52 22 Q. Was there a relationship between the
23 Day One inquiries and the FDA draft letter?

24 MS. ROBBINS: Object to the form of
25 your question.

2058457788

1 Han

2 A. I'm not exactly sure what you mean.

11:58:06 3 Q. Were they discussed at the same time?

4 MS. ROBBINS: Are you talking about
5 in the course of meetings?

6 MR. PAYTON: Yes, on February 25.

7 MS. ROBBINS: On February 25?

8 MR. PAYTON: Yes. Were they
9 discussed at the same time.

10 MS. ROBBINS: The Day One broadcast
11 hadn't occurred yet.

12 MR. PAYTON: The Day One inquiries.

13 MS. ROBBINS: I'm sorry. Okay.

14 A. I do not recall.

11:58:26 15 Q. But they were discussed at the same
16 meeting?

17 MS. ROBBINS: You can answer yes or
18 no.

19 A. I don't recall.

11:58:54 20 Q. I'm going to read back your prior
21 testimony, I'm at 197, just to see if I
22 understand what you are saying, Mr. Han.

23 A. Okay.

24 MR. PAYTON: I'm on 197.

25 MS. ROBBINS: I have it in front of
2058457789

Han

me.

11:59:06 3 Q. "Question: Was this letter" and that
4 is Han Exhibit 10 "or this version of this letter
5 the subject of any of the meetings or discussions
6 that you had on February 25 that you have already
7 testified about?

8 "Answer: Yes, sir, I believe so."

9 That's correct?

10 A. I believe so, yes.

11:59:26 11 Q. Do you recall if the inquiries from
12 Day One and the draft FDA letter were discussed
13 at the same meetings?

14 MS. ROBBINS: That's what he just
15 answered.

16 A. I believe so, but I'm not -- I'm not
17 a hundred percent certain.

12:00:00 18 Q. Were you responsible or did you have
19 any responsibility for working on a response to
20 the draft FDA letter?

21 A. No, sir.

12:00:34 22 Q. Do you know who was responsible for
23 working on Philip Morris' response to the FDA
24 letter?

25 A. No, sir. You are talking about this

2058457790

Han

FDA letter, to the Coalition on Smoking or
Health?

12:00:58 Q. Yes.

A. I don't even know if we responded to
that letter.

12:01:20 Q. Do you remember what the discussion
in connection with the draft FDA letter was at
these meeting on February 25?

MS. ROBBINS: The testimony has been
that at these meetings counsel was present. And
I'm going to direct the witness not to answer
with respect to any discussion at which lawyers
were present. If there was discussion that you
remember out of the presence of lawyers, that
don't reflect legal advice, you should testify to
that.

A. I forgot the question.

12:01:56 Q. Do you remember what the discussion
was that related to the draft FDA letter at the
meetings you attended on February 25, 1994?

A. I do not have specific recollections,
no, sir.

12:02:58 Q. At these meetings, and I believe the
meetings spanned the 24th of February and the

2058457791

MANHATTAN REPORTING C.....

Han

25th, that's Thursday and Friday, there was a discussion about the inquiries from Day One. I'm just trying to set the stage here.

And you recall that?

A. That's correct, sir.

Q. And the three specific inquiries related to denatured alcohol, statements by Dr. Dunne, and reconstituted tobacco and the use of tobacco extracts in connection with reconstituted tobacco. Do you recall that?

MS. ROBBINS: Are you referring to --

Q. And if you don't, I'm going to just direct you to Exhibit 2.

A. I believe so.

MS. ROBBINS: Let's look at the exhibit.

Q. And if you go to Exhibit 2, and that's the series of E-mails. If you have Exhibit 2 out, if you will go to page, and it has a Philip Morris document production number 2024015024 on the side.

MS. ROBBINS: The bottom of 7 and the top of 8, using the page numbers.

A. Right.

2058457792

1 Han

12:04:22 2 Q. And the bottom of 7 has "he wants
3 comment on these three things." Then we have
4 these three numbered items. Why don't you just
5 take a look at them. I'm going to ask you about
6 them in turn.

7 A. Okay.

12:05:00 8 Q. With respect to No. 1, I want to ask
9 you what it is that you understood to be the
10 facts that relate to No. 1 at the end of these
11 two days of meetings or discussions or telephone
12 calls; okay?

13 MS. ROBBINS: Let me just understand
14 your question. Okay.

15 He is simply asking for facts that
16 you learned during the course of these meetings.
17 He is not asking for legal advice.

18 MR. PAYTON: That's right.

19 MS. ROBBINS: And I assume, John, you
20 are asking for this information pursuant to the
21 stipulation you and I agreed to last time.

22 MR. PAYTON: That's right.

23 MS. ROBBINS: You can testify to the
24 facts that you learned as you remember them
25 today, but not legal advice and not legal

2058457793

Han

discussion.

A. Let's see. SDA-4, is an alcohol that was denatured with nicotine salts, I believe, and approved for use in tobacco processing by I think the Bureau -- BATF, Bureau of Alcohol, Tobacco and Firearms. And it was used as a solvent. Not a -- is that the right word? As a medium for flavorings. Medium for flavorings.

MS. ROBBINS: Are you going to ask him specific questions or you want him to --

12:06:30 Q. Just first what is it that you recall as far as the facts that you learned that relate to No. 1 here at the end of these two days. At the end of -- the 25th.

A. And we put ethylene glue, I think it's called ethylene glue, to make it so people won't drink it. Along with, of course, the denaturing. That's I think about it.

12:07:06 Q. No. 1 says, "he," and that's referring to Mr. Bogdanich?

A. I believe so.

12:07:12 Q. "Has Philip Morris shipping records from the late '80s that show we received thousands of gallons of an alcohol called SDA-4,

2058457794

1 Han

2 specially denatured alcohol with nicotine."

3 Did you verify that, that Philip
4 Morris had received thousands of gallons of an
5 alcohol called SDA-4?

6 MS. ROBBINS: Are you asking whether
7 he learned information with respect to that
8 sentence in these two dates?

9 MR. PAYTON: Yes.

10 MS. ROBBINS: That's his question.

11 A. I'm not sure if you are looking for
12 this type of specificity, but in terms of
13 confirming that we received thousands of gallons,
14 no, I did not do that.

12:07:52 15 Q. You didn't receive any information
16 that indicated that this was inaccurate, though;
17 is that fair?

18 A. That is fair. That we received
19 thousands of gallons. Right, that's fair.

12:08:06 20 Q. Did you believe that Philip Morris
21 had received millions of gallons of SDA-4?

22 A. No, sir. One way or the other, no,
23 sir.

12:08:14 24 Q. The next sentence in this first query
25 is "this alcohol has been rendered undrinkable

2058457795

1 Han

2 and the only federally approved use has been for
3 tobacco companies - for use in cigarettes."

4 Did you confirm that?

5 MS. ROBBINS: When you say "confirm,"
6 are you asking did he get information about
7 that?

8 MR. PAYTON: Yes.

9 MS. ROBBINS: Because he hasn't said
10 he tried to confirm anything.

11 MR. PAYTON: I like your question
12 better.

17-08:38 13 Q. The facts that you learned on the
14 24th and 25th, did they support that sentence?

15 A. "Has been rendered undrinkable and
16 the only federally approved use has been for
17 tobacco companies - for use in cigarettes."

18 Basically yes, what I don't know and
19 what I did not learn, or maybe I have forgotten,
20 is whether or not this type of denatured alcohol
21 can only be used by tobacco companies. I did
22 learn that it is the only alcohol of this sort
23 tobacco companies can use. Did I get that
24 right?

17-09:16 25 Q. Yes.

2058457796

Han

It's the only -- --

A. Approved.

12:09:24 Q. Your understanding is it's the only
denatured alcohol that tobacco companies could
use?

A. Approved for use by tobacco companies
in processing, right.

12:09:34 Q. Do you remember any concerns about
any of the factual content of No. 1 at the end of
the day on the 25th of February, 1994?

MS. ROBBINS: Concerns raised by
anybody in these meetings?

MR. PAYTON: Yes.

A. About that factual information?

12:09:48 Q. Yes.

A. Just the -- just the information
itself?

12:09:56 Q. In No. 1.

A. I guess I don't understand your
question. If we -- I'm sorry, could you ask me
that again?

12:10:06 Q. Yes. Do you remember any concerns
raised in the meetings on the 24th and 25th of
February, 1994, about any of the factual content

2058457797

1 Han

2 of No. 1 here?

3 A. Any concerns about the fact -- I
4 might be misunderstanding you, but --

12:10:28 5 Q. The accuracy of No. 1.

6 A. Oh. Except for the issue that I
7 pointed out before, I don't believe so.

12:10:42 8 Q. And the issue that you pointed out
9 before is simply whether or not anyone other than
10 tobacco companies could also use SDA-4?

11 A. That's correct.

12:10:50 12 Q. Do you remember whether or not that
13 was raised as a concern or are you just saying
14 you don't know the answer today?

15 A. I just don't know the answer.

12:10:58 16 Q. You don't recall that being raised as
17 a concern on the 24th and 25th?

18 A. See, that's what I don't understand.
19 I don't understand what you mean by "concern."

12:11:12 20 Q. I will say it again, you are right.

21 MS. ROBBINS: John, are you assuming
22 that this document was in front of people and
23 they went through it piece by piece at the
24 meetings that Mr. Han is describing?

25 MR. PAYTON: No, I'm not.

2058457798

Han

12:11:18 Q. Mr. Han, you did receive this document, you had a copy of the E-mail, you had read the E-mail?

A. Right.

12:11:26 Q. I'm simply asking if, looking at this E-mail right now today, you recall whether or not there was any question about the accuracy of what is in No. 1 at the end of the day on the 25th of February.

A. Accuracy?

12:11:40 Q. Yes, accuracy.

A. Except again for what I said before, no.

12:11:46 Q. I was then asking you whether or not you are saying that as of today you don't know whether or not companies other than tobacco companies use SDA-4, or do you recall one way or the other whether or not there was a question raised about the accuracy of No. 1 with respect to whether companies other than tobacco companies could use SDA-4.

A. No, I don't recall that coming up.

12:12:14 Q. So you don't recall any concerns about the accuracy in No. 1 at the end of the day

2058457799

Han

on February 25, 1994?

A. There might have been some question about the thousands of gallons. But I don't really have much recollection beyond that.

12:12:38 Q. By the way, do you know today if Philip Morris in fact uses millions of gallons of SDA-4?

A. I do not know.

12:13:00 Q. Let's go to No. 2. Do you see No. 2 here?

A. Yes, sir.

12:13:04 Q. 2 says "he has William L. Dunne, former PM R&D guy, memos. He said in 1972 at a CTR conference in St. Martin that Dunne said to the group 'you must not think of cigarettes as a product, think of it as a package like nicotine delivery system/storage pack for nicotine'."

Can you tell me the facts that you learned in the course of these two days, February 24 and 25, that relate to No. 2?

A. I did not really learn any new facts regarding Dr. Dunne and this particular quote, which I'm not a hundred percent certain is an accurate quote. Because this is something that

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Han

the company has had to deal with from time to time. And again in this particular case, my understanding is that this has been, as has been done in the past, taken out of context.

12:14:28 Q. Is that what you learned at the time, that it had been taken out of context?

A. Is that what I learned at the time?

12:14:36 Q. 24th and 25th of February.

A. No, I have had -- no. As I said before, Dr. Dunne's quote has appeared in the press many times in the past, as early as I can think back is 1988, possibly there are other times earlier but I do not know. And it has generally been taken out of context in this manner. So this was not a new issue. So there was nothing -- there was no new learnings as far as this particular quote is concerned during these meetings.

12:15:12 Q. William L. Dunne, is it correct that he was a former Philip Morris R&D guy?

A. That is my understanding. Or scientist, anyway.

12:15:20 Q. He is a scientist, okay.

A. Yes, that's my understanding.

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Han

12:15:28 2 Q. Is it correct that he said at -- do
3 you know what the 1972 CTR conference in
4 St. Martin is?

5 A. No, sir.

12:15:34 6 Q. Was there ever a question about
7 whether or not he was present at a 1972 CTR
8 conference in St. Martin?

9 A. Not that I recall.

12:15:44 10 Q. There was no question that you recall
11 about that?

12 A. Not that I recall, right.

12:15:48 13 Q. What is CTR?

14 A. Council for Tobacco Research.

12:16:02 15 Q. Were you aware that there were
16 documents that related to this conference? It
17 says memos here. Were you aware that there were
18 memos or documents that related to this
19 conference?

20 MS. ROBBINS: Well, I will object to
21 the form of the question.

22 A. I was aware of documents associated
23 with this conference, yes, sir.

12:16:30 24 Q. Had you ever seen them?

25 A. I don't believe so.

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Han

12:16:40

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Q. You were told that these quotes, specifically this quote, the quote that says "you must not think of a cigarette, of cigarettes as a product, think of it as a package like a nicotine delivery system/storage pack for nicotine." You were told that that quote was taken out of context?

A. I have, again, that is an understanding that I have had for seven years or so.

Q. What did you understand that to mean, that it was taken out of context?

A. My understanding is that this is taken out of context because Dr. Dunne is proposing a hypothesis on which to base future research into why people smoke and that he had stated such, either in depositions or in other manners.

Q. I didn't understand what you just said there. Did you mean that if we looked at the entire document this quote here would be out of context with the entire document? Did you follow that?

A. No, I'm sorry.

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Han

12:18:02 2 Q. This is a quote that No. 2 indicates
3 is from a memo. Do you see that?

4 A. Yes, sir.

12:18:06 5 Q. Were you just saying that your
6 understanding was and is that if we looked at
7 that memo, this quote would be taken out of
8 context?

9 A. I do not know the answer to that.
10 That's not what I was saying. I was saying that
11 this quote is out of context because my
12 understanding is that it was supposed to be,
13 again, a hypothesis on which to base research,
14 future research, into why people smoke.
15 Therefore he is not making a statement of fact or
16 anything like that, it's a hypothesis on which to
17 base future research.

12:18:50 18 Q. In the memo?

19 A. I don't know.

12:18:52 20 Q. Did you ever ask to see the memo that
21 Mr. Dunne, Dr. Dunne, wrote?

22 MS. ROBBINS: You are calling it a
23 memo. And I'm not objecting, but I don't think
24 there has been testimony that Mr. Han agrees that
25 there was a memo as such.

2058457804

Han

12:19:06 2 Q. Mr. Han, do you agree that there was
3 a memo that Dr. Dunne wrote in connection with
4 this 1972 CTR conference?

5 A. I can't agree or disagree. I do not
6 know.

12:19:16 7 Q. Do you agree that his views were in
8 written form?

9 A. I do not know.

12:19:24 10 Q. Were you told one way or the other?

11 A. I probably was, but I don't have a
12 recollection of it.

12:19:34 13 Q. On the 24th and 25th, was there any
14 information that you were told that took issue
15 with whether or not Dr. Dunne had produced a memo
16 in connection with the 1972 CTR conference in
17 St. Martin?

18 A. I do not have a recollection one way
19 or the other on that.

12:19:56 20 Q. And during that two-day period, the
21 24th and 25th of February, 1994, do you recall
22 being told that the quote that is in here is out
23 of context?

24 MS. ROBBINS: I don't understand your
25 question.

2058457805

1 Han

2 A. Was I told? I knew. I already -- I
3 knew it was out of context based on the
4 information I had previously.

12:20:26 5 Q. I'm asking you a different question,
6 Mr. Han. I'm asking if someone -- you say you
7 knew it was out of context because you had
8 learned that prior to the meetings on the 24th
9 and 25th of February, 1994.

10 A. Right.

12:20:38 11 Q. Because someone had told you that.

12 A. Over the years, yes. Some of them
13 many times.

12:20:44 14 Q. Because you have never seen anything
15 that would purport to be the memo in question?

16 A. Not that I can recall.

12:20:50 17 Q. So what I'm asking you is, during the
18 meetings on the 24th and 25th of February 1994,
19 did anyone tell you that this quote was out of
20 context?

21 MS. ROBBINS: Again, I don't
22 understand. Are you saying was that subject
23 discussed; is that the question?

12:21:06 24 Q. Was it discussed?

25 A. I think that that -- I'm trying to

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1 Han

2 think of the word for it. I believe that's
3 privileged.

4 MS. ROBBINS: It was discussion with
5 counsel?

6 THE WITNESS: Yes.

7 MS. ROBBINS: The distinction we have
8 been making, John, is new facts that he learned
9 he is allowed to testify to. To the extent that
10 lawyers discussed any Dunne document, he has told
11 you he is not learning new facts and that
12 discussion would be privileged and I think he
13 should not -- therefore I would advise you not to
14 testify to that kind of discussion.

15 MR. PAYTON: Barbara, I thought that
16 we had a waiver in connection with discussions of
17 these three topics, February 24 and 25.

18 MS. ROBBINS: We had, what we agreed
19 to was that Mr. Han would testify, on a no waiver
20 basis, to facts that he learned, even though
21 counsel were present at meetings, because his
22 role was to deal with the public and to some
23 extent he was learning these facts to be able to
24 deal with the public on these issues. He's told
25 you there were no new facts to be learned or that

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1 Han

2 were learned in these meetings about this
3 Dr. Dunne point 2 point. That's my point.

4 MR. PAYTON: Fine. I am only asking
5 him about facts and whether they are facts he
6 already knew or that he heard again, I'm simply
7 asking him about facts that he learned. Let me
8 tell you what he testified to. I don't want to
9 mislead you here, Mr. Han.

12:22:54 10 Q. You said in February that you thought
11 you received, and I believe your word was a
12 refresher course, on Dr. Dunne. And I believe
13 that was from Chuck Wall. So I am asking what
14 the facts are, were, that you received about
15 Dr. Dunne from -- in these meetings?

16 MS. ROBBINS: Let me ask you where
17 that testimony is so we can see what you are
18 talking about.

19 I will look up refresher course in
20 the index.

12:23:56 21 Q. I can read it to you, Mr. Han, so
22 that you know what it is.

23 A. Okay.

12:24:00 24 Q. What you said before. This is on
25 page 161.

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Han

MS. ROBBINS: Let's go back a little bit.

12:24:10

Q. Question at the top:

"Question: Did you receive information on the 24th and 25th of February about No. 2 there?" That's referring to No. 2.

"MS. ROBBINS: Factual information?"

"MR. PAYTON: Factual information."

"MS. ROBBINS: If your response calls into question any of these meetings at which lawyers were in attendance."

"Answer: Yes, I did get something of a refresher, but, Mr. Payton, understand that this story regarding Mr. Dunne pops up in the media every year. This is not the first time we had to deal with it."

"Question: From whom did you receive the refresher?"

"Answer: Mr. Wall."

MS. ROBBINS: So if you learned new facts from Mr. Wall, facts about this Dr. Dunne or the issues in 2, you can testify to that.

A. I did not learn any new facts.

12:24:58

Q. I just want to know any facts.

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MANHATTAN REPORTING CORP.

1 Han

2 MS. ROBBINS: Facts that he learned
3 are the facts that he learned at the meeting.

12:25:04 4 Q. Facts. Whether you believe you
5 already knew them or not.

6 A. The only facts that I know about
7 Mr. Dunne I believe I already stated to you.

12:25:12 8 Q. What did Mr. Wall tell you?

9 MS. ROBBINS: Again, with the caveat
10 that Mr. Wall gave you facts about Dr. Dunne in
11 the context of these meetings, you can testify
12 to.

13 MR. PAYTON: That's right.

14 A. He --

12:25:26 15 Q. Who is Chuck Wall, by the way?

16 A. He is an attorney.

17 He has also had to deal with this
18 Dr. Dunne quote on several occasions in the past
19 and he just basically --

20 MS. ROBBINS: Facts. I just want to
21 be very careful here. Any fact that he told you,
22 not anything that you would characterize as
23 opinions or thoughts or legal work product. Just
24 simple fact that he told you.

25 A. The simple --

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Han

12:25:58

Q. What facts did you receive?

A. The simple -- the only facts that I received was a statement by him, verbal statement by him to me that, A, this has happened before, Dr. Dunne again, B, again this is a hypothesis, and we have gone over this many times, it is a hypothesis on which -- he is expressing a hypothesis on which to base future research about why people smoke. That's what I'm saying, there was nothing new. I described that as a refresher course.

12:26:40

Q. Is there --

MS. ROBBINS: He just said refresher. Not refresher course. The prior testimony is refresher, not refresher course.

MR. PAYTON: I think we ought to break, because I don't think I can do just two minutes.

MS. ROBBINS: We only have two minutes left on the tape?

THE VIDEO OPERATOR: Just about.

It is 12:27, this is the end of tape No. 4 of the deposition of Victor Han. 12:27, and we are off the record.

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MANHATTAN REPORTING CORP.

Han

(Discussion off the record.)

THE VIDEO OPERATOR: Today is June 9, 1995. This is the beginning of tape No. 5 of the deposition of Victor Han. It is 12:28, and we are back on the record.

BY MR. PAYTON:

12:28:22 Q. Mr. Han, given your understanding of what Dr. Dunne had said, and the context in which you understood he had said it, what's inaccurate about No. 2?

A. I don't know. I do not know what would be inaccurate in No. 2. I mean, I do not know the 1972 date. I do not know that this is an exact quote from a memo. I don't know.

12:29:08 Q. Do you recall now whether or not there was any concern on February 24 and 25, 1994 about the accuracy of what's in No. 2 here?

MS. ROBBINS: Other than what he's already told you.

A. I mean, the concern was that it's out of context.

12:29:24 Q. Because he was speaking hypothetically?

A. I don't know if he was speaking

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MANHATTAN REPORTING CORP.

Han

hypothetically. I mean, he was proposing a hypothesis, if that's the same thing.

12:29:54 Q. Let's go to No. 3. No. 3 says "question track."

Do you know what that refers to?

A. A series of questions.

12:30:04 Q. "A, do we use reconstituted tobacco in cigarettes? B, if so, do we treat it with tobacco extract? C, does the tobacco extract contain nicotine?"

Can you tell me what facts you learned in the course of February 24 or 25 that relate to No. 3 here?

A. Well, on A, do we use reconstituted tobacco in cigarettes, I knew that we did prior to February 24 and 25.

12:30:38 Q. Was that also something that you heard again on the 24th and 25th?

A. Yes. I mean, discussions about, yes.

If so, do we treat it with tobacco extract? I never heard of tobacco extract before this time. What I learned during those two days was that -- right. Tobacco extract was part of a

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MANHATTAN REPORTING CORP.

1 Han

2 flavor package that was then put into some kind
3 of medium, whether it was alcohol or water
4 solution, and used to flavor -- on the tobacco,
5 as a flavoring ingredient.

6 Does the tobacco extract contain
7 nicotine? I learned that the tobacco extract in
8 the flavoring package does contain nicotine. I
9 also learned that the nicotine from the -- the
10 nicotine that's in the extract that's in the
11 flavoring package, as far as the overall product,
12 the final cigarette was concerned, was that the
13 nicotine that was in the tobacco, you couldn't
14 even, what's the word, it was so little that you
15 couldn't even find it.

12:32:22 16 Q. Let me go back to No. 1 for just a
17 second. Did you learn anything about how much
18 nicotine was in SDA-4?

19 A. In specific quantities, no. But
20 again -- no, I did not.

12:32:40 21 Q. Whether the use of SDA-4 resulted in
22 significant amounts of nicotine in the final
23 cigarettes?

24 A. I learned that the nicotine that's
25 used to denature -- the alcohol, again, was so

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1 Han

2 small as far as the final cigarette was
3 concerned, you couldn't measure it.

12:33:02 4 Q. And you learned that also on the 24th
5 and 25th of February 1994?

6 A. I believe -- I learned it during that
7 period, yes, sir.

12:33:08 8 Q. It may have been after that?

9 A. No.

12:33:12 10 Q. It was on the 24th and 25th?

11 A. I'm confirming it, yes.

12:33:20 12 Q. Back to question 3, then. "B, if so,
13 do we treat it," that is, reconstituted tobacco,
14 "with tobacco extract."

15 I didn't quite understand what you
16 say you learned in connection with B.

17 A. I said that, first off, I'm not
18 necessarily certain that I would say "treat."
19 But I learned that tobacco extract is part of a
20 flavor package. And the flavor package is then
21 put into some kind of a solution and then is used
22 as a flavoring agent.

12:33:54 23 Q. Apart from that, did you learn that
24 tobacco extract was used in connection with
25 reconstituted tobacco?

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Han

A. Only in the sense that I've just described.

12:34:16 Q. Did you learn what tobacco extract was on the 24th and 25th of February?

A. The -- beyond --

MS. ROBBINS: He's now told you a number of times what he thought tobacco extract was based on the meetings. I don't understand your question. The meetings that he was involved with on the 24th and 25. Meetings and phone calls, by the way. We are calling them meetings. The testimony was there were people on telephones and I don't know if meetings is precisely the right word to be using ehre.

THE WITNESS: Conversations.

A. I think I tried to, when I first began this series, be comprehensive. There were meetings and there were telephone calls.

12:35:02 Q. Conversations?

MS. ROBBINS: You are including all of this and I assume you are too, John.

MR. PAYTON: I'm including all of that on the 24th and 25th.

12:35:10 Q. I believe you said that you were told

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MANHATTAN REPORTING CORP.

Han

that tobacco extract was used in connection with
a flavor package.

A. No. I said the flavor package
contained tobacco extract.

12:35:20 Q. I'm sorry.

Did you know what the term "tobacco
extract" referred to in the sentence you just
used?

MS. ROBBINS: I object to the form of
the question.

12:35:34 Q. A flavor package containing tobacco
extract. What is tobacco extract?

A. I can't answer that question in a
manner saying that I know that this is what it is
or what it looks like or what it tastes like or
smells like, I can't. And I have not. It has
been -- no, I can't think of anything more that I
can say about it.

12:36:14 Q. Did you know what tobacco extract
was?

A. During the course of those two days?

12:36:16 Q. Yes.

A. Beyond what I've stated, no, sir.

12:36:20 Q. You just knew it was something that

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MANHATTAN REPORTING CORP.

1 Han

2 was used as part of a flavor package?

3 A. Yes. That's right.

4 MS. ROBBINS: But you are assuming,
5 John, that that's not a definition. I really
6 don't understand your question.

12:36:36 7 Q. Well, I'm simply trying to find out
8 if that is all there is to the definition that
9 you knew of tobacco extract.

10 MS. ROBBINS: Then ask him that
11 question.

12 A. That's all I know about it, right.

12:36:46 13 Q. Which is that it was something that
14 was used as part of a flavor package.

15 A. It was in a flavor package, yes, sir.

12:36:56 16 Q. And you knew that tobacco extract did
17 contain nicotine?

18 A. I was told that, yes, sir.

12:37:20 19 Q. During the same two-day period, 24th
20 and 25th, were you told that Philip Morris itself
21 extracted solubles from tobacco materials?

22 A. I was told -- I learned that during
23 the reconstituted tobacco process that, yes, the
24 solubles are taken out with water during the
25 recon process.

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Han

12:37:50

Q. Do you recall if you were told that that is a form of tobacco extract?

MS. ROBBINS: What is the "that" in your sentence?

MR. PAYTON: The solubles that are taken out of the tobacco materials as part of the reconstituted tobacco process.

A. That description of it was not raised.

12:38:36

Q. Are there any other facts that you learned in connection with either 1, 2 or 3 on the 24th or 25th of February, 1994 that you have not brought up so far?

A. Right now at this time I can't think of any.

12:39:04

Q. During these meetings on the 24th and 25th, you were responsible for coming up with a draft response to these inquiries from Day One; is that fair?

A. Was I personally?

12:39:24

Q. Yes, were you personally.

A. I was part of a team that had to do so, yes, sir.

12:39:30

Q. Were you going to be the drafter?

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MANHATTAN REPORTING CORP.

1 Han

2 A. Yes, I guess I was.

12:39:38 3 Q. In connection with that
4 responsibility, being the drafter, did you take
5 notes during this two-day series of meetings,
6 conversations, telephone calls, about topics 1, 2
7 and 3 here?

8 A. I probably did.

12:40:02 9 Q. Do you know what you did with your
10 notes?

11 A. I do not know.

12:40:12 12 Q. Did you have a routine at that time
13 with respect to notes that you would take in
14 connection with press inquiries?

15 A. No, sir.

12:40:34 16 Q. Your notebook, for example, would you
17 make notes in your notebook about matters such as
18 this?

19 A. Occasionally.

12:40:42 20 Q. Do you recall whether you did in this
21 instance?

22 A. I can't recall.

12:40:56 23 Q. This is information, that is, the
24 information that relates to 1, 2 and 3, the facts
25 that relate to 1, 2 and 3 that you learned on the

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MANHATTAN REPORTING CORP.

Han

24th and 25th, these are facts that may be of use in the future if there are similar inquiries from other press representatives; isn't that correct?

A. Um-hum.

Q. And would you have placed your notes into a file so that you could consult them at some time in the future?

A. I don't think so.

Q. Why not?

A. I don't know. I just, I doubt it.

Q. Why wouldn't you have wanted to keep track of this information?

A. Well, this information, the extent of the information that I have is the information that I have in my head. So at this point I don't believe I needed to -- I don't need to.

Q. No need to make notes because you could remember it?

A. No, you asked me why I didn't put it into file. I said I probably took notes. I don't know whether I filed them or not. And should I file them, should I be filing them or why wouldn't I have filed them. I don't know why I wouldn't have filed them. But it would appear

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MANHATTAN REPORTING CORP.

1 Han

2 to me that right now it's not necessary because I
3 remember the information that's relevant to these
4 matters for me.

5 My notes, in terms of writing a
6 statement, would be reflected in the statement.
7 The statement we would keep, for sure, of course.

12:43:02 8 Q. And the statement that contained the
9 specific responses to these three numbered items,
10 do you recall now if that contained the facts
11 that we have just discussed that relate to 1, 2
12 and 3?

13 MS. ROBBINS: Just let me hear the
14 question. You mean the draft?

15 MR. PAYTON: Yes.

16 MS. ROBBINS: And your question is
17 that contained the facts that we just discussed.

18 A. I don't know.

12:43:38 19 Q. I think you said that you didn't
20 really need any notes because the statement --

21 A. No, no, no, no. I said I probably
22 took notes. What I didn't -- what I couldn't
23 answer you is why didn't I put them in a file.

12:43:58 24 Q. That the reason you may not have
25 needed to put the notes into a file is that

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1 Han

2 statement and the draft statement contained the
3 specifics that responded to 1, 2 and 3?

4 A. No, I didn't say that.

5 MS. ROBBINS: He said the statement.
6 You said draft, he said the statement.

7 A. I say generally speaking, and I
8 wasn't speaking about this statement or this
9 situation at all. I was saying that the notes
10 that I take that are going to be used to come up
11 with a written statement are generally reflected
12 in the statement. So for that reason I would
13 suspect, I mean, I don't know, that I'd trash the
14 notes and keep the statement.

12:44:40 15 Q. In this case, you prepared a draft
16 statement that had specific responses to the
17 three numbered queries.

18 A. I believe so.

12:44:52 19 Q. You believe so.

20 And in the course of these two days,
21 the specifics were edited out; is that correct?

22 A. That is my recollection.

12:45:04 23 Q. Given that the specifics had been
24 edited out, I want to know why you didn't either
25 keep a copy of the draft statement or of your

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~~MANHATTAN REPORTING CORP.~~

1 Han

2 notes.

3 A. I don't know why I didn't keep a copy
4 of the draft statement.

12:45:22 5 Q. Or of your notes?

6 A. Or of my notes.

12:45:38 7 Q. With respect to the facts that you
8 learned that relate to question 1, the denatured
9 alcohol, SDA-4, do you recall who provided you
10 with those facts?

11 A. No, sir, I can't recall. I cannot
12 recall exactly who it was.

12:46:04 13 Q. Was it among the people that you
14 identified in March? That is, Mr. Burnley,
15 Mr. Charles, Mr. Carchman, Mr. Daylor?

16 A. I believe so.

12:46:22 17 Q. Was Mr. Houghton also involved in
18 these discussions or telephone calls?

19 A. I believe so.

12:46:28 20 Q. Could he also be a source for No. 1?

21 A. It's possible, yes, sir.

12:46:34 22 Q. I think you said that there were a
23 number of scientists who may have participated,
24 and I believe it was the list I just recited,
25 that is, Mr. Burnley, Mr. Carchman. Mr. Daylor

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1 Han

2 and Mr. Charles, and I think you also said at
3 another point Mr. Houghton. Did you consider
4 them all to be scientists? Is that the
5 collection of people you were referring to as
6 scientists, that's all I'm really asking you.

7 A. Yes, sir, right.

12:47:12 8 Q. Do you know if, having thought about
9 this maybe a little bit more, if all of them
10 participated in this at one time or another on
11 the 24th and 25th?

12 A. I have no recollection one way or the
13 other.

12:47:22 14 Q. Can you exclude any of them from
15 participating in these conversations right now?

16 A. I cannot.

12:47:32 17 Q. Who is Mr. Charles?

18 A. I believe Mr. Charles was the head of
19 our R&D, research and development.

12:47:44 20 Q. Was he then or was he retired?

21 A. I can't remember. He did retire at
22 some point either around here, around this time.
23 I can't remember if he was retired or not.

12:48:06 24 Q. With respect to No. 2, William Dunne,
25 apart from Mr. Wall, was anyone else the source

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Han

of any facts that you learned or received
relating to No. 2 during this two-day period?

A. No, sir. Not that I can recall.

Q. With respect to No. 3, do you recall
who was the source of the facts that you learned
in connection with No. 3 here during this two-day
period?

A. Oh, boy. I can't be more finite than
the list of the people for Richmond.

Q. That's the five people I was
identifying?

A. Yes.

Is it five?

Q. It's five.

A. Okay.

Q. Mr. Han, could you go to what has
been marked as Han Exhibit, I think it's 11. It
is the one-page draft that you found in your
computer database.

A. Is that it here?

MS. ROBBINS: No, it's in the new
exhibits.

MR. PAYTON: It's a new exhibit.

15.

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Han

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2

A. Here it is.

12:51:04

3

Q. Do you have that in front of you?

4

A. Yes, sir.

12:51:10

5

Q. This is a -- what do you think this

6

is?

7

A. I don't know what it is. It seems to

8

be an early draft of something. What confuses me

9

is this thing up there in the top left-hand

10

corner, "body," I don't know what that means.

11

And I say it's early because there is some

12

information in here that's inaccurate, that I

13

learned about -- that I learned and had corrected

14

later on. That's the reason.

12:51:40

15

Q. Does it look like something that was

16

prepared by you, since it's in your database,

17

during this two-day period?

18

A. I believe so.

12:51:52

19

Q. You don't have any idea what the

20

term, body, it begins with "body:", then we have

21

four paragraphs.

22

A. That's what throws me off.

12:52:02

23

Q. What's inaccurate?

24

A. Oh, let's see. Oh, "tobacco extract

25

is sometimes used as a flavoring for

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MANHATTAN REPORTING CORP.

Han

reconstituted tobacco leaf."

12:52:40 3 Q. That's the next to last sentence?

4 A. Yes. And as I stated, I had learned
5 after this tobacco extract is used as part of a
6 flavor package, which I think is a fundamentally
7 different thing.

12:53:08 8 Q. What's the difference?

9 A. A flavor package contains, I don't
10 know how many, and I don't know what kinds of
11 things in it, but many things. Only one of those
12 things, and one of those things in certain flavor
13 packages, is tobacco extract. So if you believe
14 a tobacco extract is sometimes used as a
15 flavoring, it sounds as though you are spraying
16 tobacco extract on it, which is not the case.

12:53:44 17 Q. Did someone tell you that tobacco
18 extract is sometimes used as a flavoring for
19 reconstituted tobacco leaf?

20 A. I don't recall if that was said to me
21 or I got it wrong or what.

12:53:56 22 Q. Do you recall who told you this was
23 incorrect?

24 A. No, sir.

12:54:06 25 Q. Is the first sentence in the last

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paragraph correct, "all domestic manufacturers of cigarettes use reconstituted tobacco leaf."

To your knowledge, is that sentence correct?

A. I believe so.

Q. Do you know if other cigarette manufacturers may use tobacco extract as a flavoring for reconstituted?

A. No, sir, I do not know.

Q. You don't know if the second sentence is accurate or inaccurate?

MS. ROBBINS: With respect to Philip Morris?

MR. PAYTON: That's fair.

Q. The last paragraph, the first sentence says "all domestic manufacturers of cigarettes use reconstituted tobacco."

Do you see that?

A. Yes, sir.

Q. It is referring to in the first sentence all manufacturers, all domestic manufacturers of cigarettes?

A. To be more specific, I would say all domestic manufacturers is in fact referring only

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to the major manufacturers.

12:55:00 Q. The second sentence, which says
"tobacco extract is sometimes used as flavoring
for reconstituted tobacco leaf," follows that
first sentence, that could be referring to major
cigarette manufacturers; is that correct?

A. Yes, I believe it could.

12:55:18 Q. Do you know if the second sentence is
accurate or inaccurate?

A. I thought I just went over that.

12:55:24 Q. You did with respect to Philip
Morris, I thought, only.

A. I'm sorry. The tobacco extract is
used as flavoring for other companies. Do I know
that to be true or not to be true? I do not know
if this --

MS. ROBBINS: Are you asking whether
the second -- he wrote the thing. Are you
asking whether he meant the second sentence to
apply to all companies?

12:55:56 Q. Did you write these sentences?

A. I believe I did.

12:56:10 Q. Have I read this properly that the
first sentence seems to refer to all domestic

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MANHATTAN REPORTING C

1 Han

2 manufacturers?

3 A. That's correct.

12:56:16 4 Q. And the second sentence seems to be
5 following the first sentence and is fairly read
6 as referring to the same group of manufacturers;
7 am I right about that?

8 A. I believe so. I think so.

12:56:30 9 Q. And you don't know if the second
10 sentence is accurate or inaccurate with respect
11 to any major manufacturer of cigarettes except
12 for Philip Morris?

13 A. See, I guess I'm getting a little bit
14 confused. First off, will you accept what I
15 consider to be the inaccuracy of the sentence?

12:57:06 16 Q. I understand what you say to be the
17 inaccuracy.

18 A. Okay. "Tobacco extract is sometimes
19 used as a flavoring for reconstituted tobacco
20 leaf" doesn't seem to me to have anything to do
21 with all manufacturers. It just says it
22 sometimes is.

12:57:24 23 Q. Okay. And that would mean, as you
24 just, I believe, understand the second sentence,
25 it could apply to --

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2 A. It could apply to all --

12:57:36 3 Q. Any manufacturer.

4 A. It could apply to all manufacturers,
5 it might not apply to all manufacturers.

12:57:44 6 Q. It could apply to any manufacturer?
7 Is sometimes used as a flavoring for
8 reconstituted tobacco leaf --

9 MS. ROBBINS: I'm totally lost. Are
10 you asking what he meant? Why don't you ask him
11 what he meant by the sentence?

12 MR. PAYTON: I am asking him what he
13 meant.

14 A. I meant, incorrectly at this point,
15 exactly what it says. That it's sometimes used
16 as a flavoring for reconstituted tobacco leaf.

12:58:12 17 Q. And right now today, do you know if
18 tobacco extract is sometimes used as a flavoring
19 for reconstituted tobacco leaf by major cigarette
20 companies?

21 A. I believe it is. But no, I do not
22 know for hundred percent certain. I probably
23 knew about it then, but I don't know anymore.

24 MR. PAYTON: Let's break for lunch.

25 THE VIDEO OPERATOR: It is 12:58, and

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MANHATTAN REPORTING

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we are off the record.

(Luncheon recess: 12:58 p.m.)

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MANHATTAN REPORTING CORP.

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A F T E R N O O N S E S S I O N

THE VIDEO OPERATOR: It is 2:01, and
we are back on the record.

V I C T O R H A N,
resumed, having been previously duly sworn, was
examined and testified further as follows:

CONTINUED EXAMINATION

BY MR. PAYTON:

02:01:34 Q. Mr. Han, during this time period,
this is February 24, 25, 1994, in addition to
learning facts from various of the people that
were either on the telephone call, you had
conversations with or were in meetings with you,
did you also receive documents, written material?

A. During the 24th and the 25th?

02:01:56 Q. Yes.

A. I don't believe so.

02:02:12 Q. Did you receive other person's drafts
of statements in response to the inquiries by Day
One?

A. Other person's drafts? On the 24th
and 25th. I do not believe so. I don't recall
that I did.

02:02:30 Q. Did you receive other person's edits

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2 of your draft or drafts?

3 A. Undoubtedly.

02:02:46 4 Q. How did this process work? Were your
5 drafts faxed to persons who was not present and
6 were the edits faxed back to you?

7 MS. ROBBINS: Are we talking about a
8 specific statement, John?

02:03:02 9 Q. Let's take the first statement you
10 prepared, which as I understand it -- let me just
11 ask you. Is the first statement you prepared
12 during this two-day period the one that contained
13 the specific responses to the numbered queries in
14 Exhibit 2?

15 MS. ROBBINS: The statement itself, I
16 think there is some confusion. Why don't you
17 show him the statement you are referring to and
18 ask him if that's the first statement.

19 MR. PAYTON: It does not exist.

20 MS. ROBBINS: That's a draft. That
21 is not a statement.

22 MR. PAYTON: The one I'm referring to
23 is the one -- let me start again.

02:03:36 24 Q. You testified today and on March 16th
25 that you prepared a response to the Day One

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queries, the three queries, that was specific, but that in the course of the editing the specifics were edited out; is that accurate?

MS. ROBBINS: No, I'm going to object. It's not accurate. And --

MR. PAYTON: Then let me ask him another question.

02:03:58 Q. Is that accurate? You can tell me.

A. I prepared a statement, a draft statement that I felt was responsive to what I considered to be the main charge being made against us. I believe at an early stage that contained more information than the final draft did, if that's what you are getting at.

02:04:22 Q. And it also contained information that responded to the specifics in the numbered paragraphs; isn't that correct?

A. I believe so.

02:04:30 Q. And was this the first draft that you prepared?

A. I do not know.

02:04:36 Q. Do you recall what the first draft was that you prepared?

A. No, I do not. No, I do not.

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MANHATTAN REPORTING CORP.

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Q. Then let me just ask generally how this process worked. And I will ask you about some specific statements or drafts a little bit later. Generally, you would prepare a draft because your responsibility was to prepare a draft, as I understand it.

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9

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A. Correct. If you are talking about this specific situation, the 24th and 25th, or just generally what kind of a process we used?

02:05:18

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Q. No, only the 24th and 25th.

A. I believe I would prepare -- would have prepared a draft, several drafts, a draft, and taken it to, had it reviewed by Mr. Wall, Mr. Parrish, they would suggest changes, make pencil edits or tell me, I would go back and make the changes. At some point they become satisfied with what they had. And then they would check it with other people. When I say that, I don't know if they would fax it to them or E-mail it to them or simply read it to them over the telephone or show it to them. But any variety of those.

02:06:20

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Q. Were some people -- did some people receive it by fax and others by E-mail and others were read over the phone?

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A. I don't know. I don't know -- I don't know in this particular situation which one of those transmissions would have been used.

02:07:06 Q. The E-mail that contains the three numbered paragraphs that are purporting to be what Day One asked about, that's the February 24 E-mail. Do you have that in front of you, it's in Exhibit 2?

A. Yes.

MS. ROBBINS: It's 7 to 8.

MR. PAYTON: Yes, 7 to 8.

02:07:34 Q. This is a February 24 E-mail, but it is reporting on a conversation that occurred on the 23rd of February.

Do you see that, the first sentence, "as discussed"?

A. Yes.

02:07:52 Q. And this E-mail is sent to -- from Karen Daragan to you, Denise Keane, Ellen Merlo, Ellen Merlo is your boss or was your boss?

A. She was my boss at the time.

02:08:06 Q. And Steve Parrish.

MS. ROBBINS: Hard copy to Chuck Wall.

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02:08:12 Q. Hard copy to Chuck Wall, right.

Do you know how other people that participated in the discussions and meetings on the 24th and 25th learned what the queries were from Day One; Mr. Daylor, Mr. Charles, Mr. Burnley, Mr. Houghton?

A. I believe they were telephoned and told.

02:08:36 Q. Do you know if they received this hard copy or this E-mail?

A. That I do not know.

02:08:46 Q. Do you recall that at the meetings that occurred on the 24th and 25th some people had copies of this E-mail?

A. I do not know that.

02:08:58 Q. You don't remember one way or the other?

A. That's correct.

02:09:08 Q. Did you brief persons who did not receive this E-mail, other than the people who are identified as the to and the from and the hard copy to Chuck Wall, did you brief any of the other persons, Mr. Charles, Mr. Houghton, Mr. Burnley, Mr. Daylor, about what the queries

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MANHATTAN REPORTING CORP.

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2 were from Day One?

3 A. I cannot recall if I did or did not.
4 I cannot recall. I could have, but I don't
5 recall.

02:09:36 6 Q. Were you present when those telephone
7 conversations, when any telephone conversations
8 took place where they were briefed?

9 A. I believe I was, yes.

02:09:54 10 Q. What do you recall of that?

11 A. I just recall, and again I can't say
12 specifically who was on the other end of the
13 line, but calls would be made and the issues or
14 the questions from Day One would be described. I
15 might have piped in and discussed them with them
16 or I might not have or Chuck and Steve led the
17 conversation. I just don't remember.

02:10:28 18 Q. You recall these conversations as
19 being conversations in which Mr. Parrish and
20 Mr. Wall participated? That's Chuck and Steve,
21 right?

22 A. Yes. Yes, sir. I'm not saying they
23 were always in on all the conversations together,
24 but on the 24th and 25th my recollection is that
25 at least in the circumstances you are talking

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MANHATTAN REPORTING CORP.

Han

about when the information was first conveyed to some other people outside the New York office, I do believe that Steve and Chuck were together at the time.

02:11:08 Q. Ms. Linehan was also party to some of these telephone conversations on the 24th and 25th; is that correct?

A. I do not recall. I can't recall if she was or not.

02:11:20 Q. I don't have the actual page of testimony, but we can get it. Let me tell you what I remember you saying, let's see if this refreshes your recollection. I believe you thought it was Ms. Linehan who suggested that the specifics in a draft that you prepared be deleted.

A. Right.

02:11:38 Q. That's correct?

A. Yes, that's correct.

02:11:40 Q. That was on the 24th or the 25th?

A. Yes, sir.

02:11:44 Q. Do you know if she did that on a telephone call?

A. I believe she -- I believe she did

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MANHATTAN REPORTING CORP.

Han

that on a telephone call with just me. Now, she might have had other individual calls with other people on the same subject, but I'm not aware of those.

02:12:04 Q. You may have had a telephone conversation with Ms. Linehan where it was just the two of you on the call?

A. Yes.

02:12:12 Q. Do you recall other telephone conversations on the 24th and 25th that you had with just one other party, where you made the call or you received the call?

A. I very well could have, seeking some information. But I don't have a recollection of it one way or the other.

02:12:32 Q. But you do recall having a conversation, you believe you had a conversation just you and Ms. Linehan?

A. Yes, sir, I believe I did.

02:12:40 Q. Had you sent her your draft statement?

A. I believe I did. Certainly she got it. I'm not sure if I was the one who sent it to her, and I'm not certain of the mode of

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MANHATTAN REPORTING CORP.

Han

transport, so to speak.

Q. Fax or E-mail would be the alternatives?

A. Yes, right.

Q. And this would have been --

A. Or I might have just read it. I don't remember.

Q. Do you recall that this was the version of the draft that contained the specific responses to the numbered paragraphs?

A. I remember it being a draft that had more information related to some of the other questions in the E-mail.

Q. Do you recall that there was a most inclusive draft?

A. Most inclusive?

Q. Yes. Was there a draft which contains more information than any other draft, and from that it is edited down?

A. Oh, I do not recall anything that was more inclusive than the draft I believe that I reviewed with Buffy. There might have been, but I don't recall it.

Q. And Buffy is Ms. Linehan?

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MANHATTAN REPORTING CORP.

1 Han

2 A. I'm sorry, Ms. Linehan.

02:14:22 3 Q. Do you know on which day that
4 conversation with her would have occurred, the
5 24th or the 25th?

6 A. I cannot be certain.

02:14:40 7 Q. What's your best recollection?

8 A. 25th.

02:14:50 9 Q. Can you recall the conversation you
10 had with her?

11 A. Not in specifics and not in words.
12 First she suggested that we provide less
13 information than was in the draft.

02:15:34 14 Q. Did she make suggestions?

15 A. That was --

02:15:38 16 Q. About -- I said, she didn't edit it?

17 A. I don't think that she did.

02:15:48 18 Q. Why did she think there ought to be
19 less information than was in the draft?

20 A. Her specific concern -- I can't
21 recall what it was that she was specifically
22 concerned about.

02:16:04 23 Q. Did you agree with her?

24 A. I believe I thought she had a point.
25 Whether I agreed with her a hundred percent, I

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Han

can't recall at the time.

02:16:20 Q. Do you remember what your point was?

A. You mean during that conversation?

02:16:26 Q. Um-hum.

A. What my point was?

02:16:30 Q. Um-hum.

A. That specific time, for that conversation, I do not have a recollection.

02:16:56 Q. Have you talked to Ms. Linehan about these events in the last two or three months?

A. No, sir.

02:17:10 Q. Did the reason she thought there ought to be less information in the draft have to do with her concern that the information would be misused by the media?

A. You know, I can't be certain about this, but I believe there was, there was a flavor of that. But I can't be certain.

02:17:54 Q. What did you understand that to mean, "misused," the concept?

A. Taken out of context, used inappropriately. Basically that.

02:18:10 Q. Ms. Linehan was the head of the Washington office for Philip Morris; is that her

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position?

MS. ROBBINS: At the time?

MR. PAYTON: At the time.

A. That is correct.

02:18:18 Q. What was her relationship or that
office's relationship to the communications
department and you?

A. Well, for the most part very little.
Last year, 1994, because of the activity that
arose out of this program, on this program, there
were a lot more federal issues that were
involved. And at that point we had to work more
closely together. I'm talking about the office.

02:18:56 Q. Why did you decide to consult her
with respect to the statement that you drafted on
the 24th or 25th?

A. Well, I was either asked to or it was
because it had some federal ramifications.

02:19:32 Q. Do you remember what the federal
ramifications were?

A. FDA.

02:19:46 Q. Was this statement that you drafted
on the 24th or 25th drafted in response to the
inquiries from Day One as well as in response to

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~~MANHATTAN REPORTING CORP.~~

Han

the draft letter that you had seen from the FDA?

A. I can tell you that in my writing the statement I was thinking about ABC's Day One.

Q. But again, why was Ms. Linehan involved? What was the federal issue that arose that caused you to consult with her about your statement?

MS. ROBBINS: I think his word was ramification, not issue.

MR. PAYTON: Ramification.

A. The letter to the FDA, the Friday letter, is that the Friday letter from the FDA, my belief spoke of having received information regarding some of these spiking issues and controlling issues. And it was a logical thing to do, since that's a federal issue, to consult with the D.C. office.

Q. So at some point did you understand your draft statement to have a dual purpose to deal with --

A. No, sir, I did not believe -- in my own personal view I did not view it as having a dual purpose. But if there is going to be anything that we say publicly that involves

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1 Han

2 Washington, D.C., we would speak with our
3 Washington, D.C. office first.

02:21:34 4 Q. You believe that you did not consult
5 with your Washington, D.C. office until after you
6 received the draft FDA letter?

7 A. I can't say one way or the other, I
8 don't know. I don't recall. I mean, it's beyond
9 the FDA letter as well. We are talking about
10 ingredients as well, and ingredients have to do
11 with HHS.

02:22:14 12 Q. What were the ingredients you were
13 talking about?

14 A. SDA-4, reconstituted tobacco, tobacco
15 extract.

02:22:28 16 Q. When you say ingredients, do you mean
17 ingredients on the ingredient list that are
18 submitted to HHS?

19 A. That's generally what I mean when I
20 talk about ingredients. But I mean anything of
21 those that has to do with what's inside the
22 cigarettes.

02:22:48 23 Q. Do you know if SDA-4 is on the
24 ingredients list that is submitted to HHS?

25 A. I do not know.

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1 Han

02:22:54 2 Q. Do you know if tobacco extract is on
3 the ingredients that is submitted to HHS?

4 A. I do not know.

02:23:00 5 Q. Do you know if reconstituted tobacco
6 is on the ingredients list that is submitted to
7 HHS?

8 A. I do not know.

02:24:00 9 Q. Could you take a look at what we have
10 previously marked as, I believe, Han Exhibit 16,
11 but I'm not positive it's Han Exhibit 16. I'm
12 looking for the letter from the Coalition on
13 Smoking or Health.

14 A. 16.

02:24:16 15 Q. Do you have that there?

16 A. Yes, sir.

02:24:20 17 Q. Do you recall whether or not you
18 discussed correspondence from the Coalition on
19 Smoking or Health with Ms. Linehan?

20 MS. ROBBINS: In what time frame?
21 Any time frame?

22 MR. PAYTON: This time frame is
23 October 21, 1991.

02:24:36 24 Q. Would you have consulted with her
25 because this also raised federal issues?

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2 A. You mean the 16?

02:24:44 3 Q. Yes.

4 MS. ROBBINS: Do you mean if he was
5 going to be writing a statement about it would he
6 consult with her?

7 A. Or did I?

02:24:52 8 Q. Did you.

9 A. I don't recall seeing this document
10 before today. So I don't have any recollection
11 of talking to her about it.

02:25:00 12 Q. We did, I believe, receive this from
13 your files. You don't remember one way or the
14 other?

15 A. No, sir, I don't.

02:25:06 16 Q. Is this the type of document, though,
17 that would -- if you thought you had to take some
18 action in respect to it, you would consult with
19 the Washington office because it raised some
20 issues of federal ramifications or concern? I
21 mean, it's about the FDA or about regulation by
22 the FDA.

23 A. If I had to deal with this document
24 in some fashion with the media, yes, I would talk
25 to the Washington, D.C. office.

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Han

John Dingell, absolutely I would speak to the Washington, D.C. office.

Q. Did you report Ms. Linehan's suggestions that less information should be included in the statement back to anyone else?

A. Oh, I'm sure I did. I don't have a specific recollection.

Q. And did they agree?

A. Again, I don't have a specific recollection, but based on the statement that came out in the end, I believe that they did.

Q. Do you have a recollection as to how many different statements you actually produced over these two days; two, three, four, five?

A. You mean drafts?

Q. Yes, drafts.

A. No, sir, I do not.

Q. The statement that we've marked today, the draft that we've marked today that was produced in the last couple of weeks that you found in your computer files, I've forgotten the exhibit number.

A. 15.

Q. 15. It's your testimony you don't

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1 Han

2 believe this is the statement that contained the
3 specifics that you discussed with Ms. Linehan; is
4 that correct?

5 MS. ROBBINS: I don't think that
6 accurately characterizes his testimony.

7 A. Are you -- if you are asking me --

02:27:58 8 Q. It was a different statement that you
9 discussed with Ms. Linehan?

10 A. I believe so, yes.

02:28:10 11 Q. So if that's correct, if there was a
12 statement that you discussed with Ms. Linehan,
13 there is a statement that eventually is issued
14 and there is this statement that is Exhibit 15,
15 that's three drafts. Do you know if there were
16 additional drafts?

17 MS. ROBBINS: Just wait a minute.
18 What was issued isn't a draft, obviously, it's a
19 statement. So you are saying there are at least
20 two drafts that you think --

21 MR. PAYTON: Right.

22 A. And also, as I said before, I don't
23 know that this was an earlier draft. I do not
24 know if there were others.

02:29:08 25 Q. Do you recall what would have been in
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1 Han

2 the draft that you discussed with Ms. Linehan, if
3 it were a draft different from Exhibit 15, what
4 additional would have been in there, what facts
5 would have been in there?

6 MS. ROBBINS: This has been asked and
7 answered, you did this with him last time.

8 MR. PAYTON: No, I didn't.

9 MS. ROBBINS: You did. This is where
10 you got the information that there was a prior
11 draft, and if there was some detail about the
12 specific three issues and if it was discussed
13 with Ms. Linehan.

14 MR. PAYTON: No, I simply asked
15 him -- anyway.

02:29:36 16 Q. Were there additional facts that were
17 included in the statement that Ms. Linehan saw
18 that you can now recall?

19 A. That I can now recall?

02:29:42 20 Q. Yes.

21 A. No, sir.

02:30:28 22 Q. The third paragraph of Exhibit 15.
23 Do you see that, it says "Dr. Dunne's documents
24 have been public for more than six years"?

25 A. Yes.

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02:30:48

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Q. Do you understand that the documents that are being referred to are the same materials that are being referred to in query No. 2 in the E-mail?

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A. I cannot tell you with certainty that the memos refer to in the No. 2 question are exactly the same as included in the documents I referred to as draft. Or -- yes, the Dr. Dunne's documents. I do not know. I don't know what the memo was.

02:31:34

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Q. How could you know that this was responding then to what's in No. 2?

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A. Because I've heard the charge before, many, many, many times. And it has been in the newspapers many, many, many times. And the documents have been available since the Chipillone trial.

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Q. So you assume that in fact the documents that are being referred to in this third paragraph here, "Dr. Dunne's documents have been public for more than six years," you assume that those documents that you are referring to in this third paragraph are the same documents that are being referred to in the second query?

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Han

A. I'm assuming that the memos referred to are part of the overall documents referred to in the third paragraph.

02:32:48 Q. And is it your understanding that the documents you are referring to in this third paragraph, Dr. Dunne's documents, were Philip Morris documents prepared with Philip Morris identification on it?

MS. ROBBINS: I object to the form of the question and I don't understand it.

02:33:06 Q. Do you understand it?

A. Could you ask it one more time, please?

02:33:12 Q. Let me ask it a different way. Did you understand that Dr. Dunne's documents, that you are referring to in this third paragraph, were personal documents that were just Dr. Dunne's, or were they Philip Morris documents authored by Dr. Dunne?

A. I do not know.

02:33:28 Q. Were you told one way or the other?

A. I do not know that I was told one way or the other.

02:34:04 Q. Had you been involved in responding

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MANHATTAN REPORTING CORP.

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2 to press inquiries prior to this, prior to
3 February of 1994, in which this number of people
4 and this number of scientists were involved in
5 coming up with the response that Philip Morris
6 would make?

7 A. I -- I'm not sure -- I think maybe
8 you might be mistaken or misunderstanding me.
9 The scientists did not come up with the
10 response. We gathered information from them.

02:34:42 11 Q. Were you involved in responding to
12 press inquiries where the process for coming up
13 with that response went over a couple of days and
14 involved Mr. Parrish and Mr. Wall and
15 consultations with the Washington office in order
16 to come up with Philip Morris' response?

17 MS. ROBBINS: You are talking about
18 two days?

19 MR. PAYTON: Two days.

20 MS. ROBBINS: Actually it's --

21 MR. PAYTON: Two days.

22 MS. ROBBINS: The E-mail with the
23 specific inquiries isn't written until midday of
24 the 24th. I think the time is 12 something on
25 the 24th.

2058457856

Han

A. I don't have any specific recollections, although I feel -- I believe that there were numerous occasions previous to this during my time at Philip Morris where scientists were consulted to help us develop responses -- answers to media questions.

02:35:40 Q. If you can look back at Exhibit 2 to the E-mail that we are talking about. Do you see the E-mail there, I'm on page 7.

A. Yes.

02:35:58 Q. This is an E-mail that is dated the 24th of February, Thursday, at 12:55.

Do you see that?

A. Yes, I do.

02:36:08 Q. Right after noon. But it reads "as discussed, Walt Bogdanich called me last night from ABC Day One."

Do you recall having a conversation with Karen Daragan prior to this E-mail being sent?

A. I could very well have, but I don't have a recollection of it.

02:36:34 Q. Do you recall such deliberation going into the response to a media inquiry before this?

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MANHATTAN REPORTING CORP.

Han

A. Such deliberation?

02:36:40 Q. Yes.

MS. ROBBINS: I will just object to the form of the question.

A. What do you mean by "such deliberation"?

02:36:52 Q. With Mr. Parrish and Mr. Wall and others over a two-day period.

A. Are you saying that we spent two entire days talking about nothing but this?

02:37:08 Q. No.

A. Okay. Sure. I mean, if we are given a deadline that's four, five, six days out, we will take four or five days, probably, just because it's not top priority to gather information if necessary.

02:37:32 Q. Were these inquiries by Day One a big deal to Philip Morris?

A. At what point in time?

02:37:40 Q. 24th, 25th.

MS. ROBBINS: I object to the form of the question. I don't know what you mean by "big deal." And you are talking about these three specific inquiries?

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Han

MR. PAYTON: Yes.

MS. ROBBINS: I think you have to do better than "big deal."

A. Big deal? Any time -- obviously first we take all media inquiries very seriously. Any questions that have to do with anything in the nature of ingredients with our product, because of the trade secrets that are involved, take on greater significance.

02:39:46 Q. Did you discuss, Mr. Han, any of the draft statements, or the final statement, did you discuss those with any member of your staff in the communications department?

A. Yes, I believe I did. I don't know during what phase of all this, but certainly I discussed it with Karen Daragan.

02:40:14 Q. Do you recall those discussions with Karen Daragan?

MS. ROBBINS: Just a minute. There is testimony with respect to that last time, John. And you've asked a lot of questions that we've gone over last time. And you've spent a tremendous amount of time on. We are still at February 25th and it's a quarter to three. And

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Han

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02:41:54 15

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02:42:18 22

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02:42:20 24

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I'm getting very worried that this whole day is going to be devoted to February 25th, and you spent a lot of time on February 25th last time. Having said that, I ask you can we please begin to move on.

MR. PAYTON: We are just about to.

A. You are asking can I recall my conversations with Karen? I cannot -- I can't be more specific than I believe discussing what we were going to do with the statement, in terms of who -- how we were going to send it to or who we were going to send it to, when. And the appropriateness of the statement.

Q. Mr. Han, I earlier in this deposition had marked and showed to you a document that was a media affairs call report. I think it's 17. I marked it and then didn't ask you any questions about it.

A. Right. Because it looks so different from the other ones.

Q. Do you have 17 in front of you?

A. Yes, sir.

Q. This is the media affairs call report that goes from the period 2/18/94 to 2/25/94.

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MANHATTAN REPORTING CORP.

1 Han

2 Do you see that?

3 A. Yes, sir.

02:42:30 4 Q. Could you now go to the third page.

5 A. Yes.

02:42:38 6 Q. Do you see the entry for Day One on
7 2/24, says "ABC's Day One," says "PM comment on
8 nicotine addiction." Then it says "provided
9 written statement."

10 Do you see that?

11 A. Yes.

12 MS. ROBBINS: I'm sorry, John, I'm
13 just trying to find it.

14 MR. PAYTON: I understand.

15 MS. ROBBINS: Which page?

16 THE WITNESS: Page 3.

17 MS. ROBBINS: Okay.

02:43:18 18 Q. I just want to ask you, Mr. Han, if
19 this is logged on the wrong day. It's on the
20 24th, which is the date of the E-mail, but the
21 inquiry in fact came in on the 23rd. Should this
22 have been logged on the 23rd?

23 MS. ROBBINS: Wait. 23rd? The 23rd
24 or the 25th?

25 MR. PAYTON: The 23rd.

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MANHATTAN REPORTING CORP.

Han

MS. ROBBINS: The provided written statement can't have been on the 23rd.

MR. PAYTON: The inquiry.

02:43:50 Q. Just tell me how you would have done this. The inquiry comes in on the 23rd, I think if you look at the E-mail it makes it clear it came in on the 23rd.

A. Right.

02:44:00 Q. The E-mail is generated on the 24th.

A. Right.

02:44:04 Q. Should the request have been logged on the 23rd and maybe the response should have been logged on the 24th?

A. Ooh, I see what you are saying.

MS. ROBBINS: Or the 25th?

MR. PAYTON: I'm coming to that.

02:44:20 Q. Let me take Ms. Robbins' point, that the request should have been logged on the 23rd and the response should actually have been logged on the 25th, unless there is a response on the 24th that I'm unaware of.

MS. ROBBINS: I will just object to your "should have been." If you are asking if there was a mistake in some fashion, that's

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Han

fine.

MR. PAYTON: Just by their procedures.

02:44:42 Q. Just by your procedures.

A. I do not know if we logged this information by the date of the receipt of the question or the date of the response. Obviously most of the time, 99 percent of the time it's the same day. So I can't answer that question, I don't know.

02:45:04 Q. Do you think that it is possible that you drafted a written statement on the 24th in response to these inquiries?

MS. ROBBINS: And sent it out?

MR. PAYTON: I don't know.

A. I do not know when during the course of those two days, when I was drafting the statement. It could have been on the 24th and the 25th, it could have been just the 25th. I just don't recall.

02:45:32 Q. Listen, is it fair -- I'm just trying to find out how to account for these inquiries. It's fair to say, and it certainly must be your testimony, that you did not provide Day One with

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MANHATTAN REPORTING CORP.

1 Han

2 a written statement on the 24th; is that correct?

3 A. That is my belief, yes, sir.

02:45:48 4 Q. However you would have logged the
5 inquiry, the response should have been logged on
6 another day?

7 MS. ROBBINS: Again, I will object to
8 the "should have" formulation.

02:45:56 9 Q. Just by your procedures. I'm not
10 trying to make any other point, Mr. Han.

11 A. I know, I'm trying to answer your
12 question. I just don't have an answer for it. I
13 didn't put this thing together, and I honestly do
14 not know which direction they take. My guess is
15 this is a typo, that's all.

16 MS. ROBBINS: That's why I'm
17 objecting to your "should have" formulation. I
18 think you discussed some of these media affair
19 reports with Ms. Carraro, who did say that she
20 did a lot of these. You are suggesting that
21 something was done wrong here and I just don't
22 know whether that's so or not.

23 MR. PAYTON: I'm not trying to attach
24 any value if there is any accuracy.

25 MS. ROBBINS: If your question is was

2058457864

1 Han

2 there was a written statement provided on the
3 24th, I think everybody in this room will agree
4 there was not.

5 MR. PAYTON: Right.

02:46:46 6 Q. Could we go to what's been previously
7 marked as Han Exhibit 8. Which is the statement
8 that is issued.

9 MS. ROBBINS: I thought we were
10 making progress. That's the cover sheet and
11 that's the statement.

12 MR. PAYTON: And I don't believe
13 we've actually discussed this. We marked it.

14 MS. ROBBINS: Okay. I'm not sure
15 that's right, but okay.

02:47:16 16 Q. This is the statement that was sent
17 out on the 25th; right?

18 A. That's what the cover memo indicates.

02:47:34 19 Q. The cover memo from you reads
20 "attached is the approved statement that was
21 faxed to ABC's Day One this afternoon. We will
22 not be answering any questions and do not intend
23 to provide any further information."

24 Do you see that?

25 A. Yes, sir.

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MANHATTAN REPORTING CORP.

Han

02:47:48 Q. Did you draft that?

A. Yes, sir, I believe so.

02:47:52 Q. Was this unusual for you to do, that is, to decline to answer any questions about a statement you sent out?

A. Is it unusual? There are situations where you would send out a statement and also field questions. There are circumstances that you will just issue a statement and not field any questions. It all depends on the circumstance.

02:48:18 Q. Not unusual?

A. I can't say it's unusual or not unusual. It all depends on the circumstance.

02:48:30 Q. Let's go to the statement. Just turn the page.

A. Okay.

02:48:34 Q. First sentence reads "each year all cigarette ingredients are reported to the Department of Health and Human Services, as required by law."

Is it the case that none of those ingredients are then reported to the public by either the cigarette companies or by the Department of Human Services?

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MANHATTAN REPORTING CORP.

Han

A. Are you talking then or now?

Q. Then.

A. At that time the ingredients were held as trade secrets, so no, they were not provided to the public. You asked somebody else besides the public or was that?

Q. No, I simply asked if the public, if this was ever reported to the public.

A. That the ingredients were submitted every year?

Q. No, the ingredients themselves.

A. The ingredients themselves reported to the public?

Q. Right.

A. Not I don't believe so, not at this time.

Q. Not in February 1994?

A. Not in February 1994, I don't believe so.

Q. I believe your word is the charge, I think that's actually in the E-mail, the charge of the inquiry by Day One was that -- I'm going to read it to you.

MS. ROBBINS: Why don't you keep this
2058457867

MANHATTAN REPORTING CORP.

1 Han

2 out.

02:50:08 3 Q. It's on -- do you have that, it's
4 Exhibit 2, and it's that same E-mail we are
5 talking about. And I'm referring to the phrase
6 that goes "they will make the charge that
7 cigarette companies are artificially adding
8 nicotine to cigarettes rather than naturally
9 using tobacco leaf."

10 Do you see that, sir?

11 A. Yes, sir.

02:50:38 12 Q. Why wasn't that specifically denied?

13 A. It is.

02:50:44 14 Q. Where?

15 A. "None of these ingredients and
16 nothing done in the processing of tobacco or
17 manufacture of cigarettes by Philip Morris
18 increases the nicotine in the tobacco plant."

02:51:00 19 Q. That's the denial?

20 A. About what is found naturally in the
21 tobacco, yes. Yes.

02:51:34 22 Q. Doesn't that just mean that if any
23 nicotine is added, it's not enough to go above
24 the nicotine in the tobacco blend?

25 A. I can see how somebody could read it
2058457868

1 Han

2 that way, but that's not the way -- that's not
3 the intention of the way it was written.

02:51:58 4 Q. The intention was to say what?

5 A. We don't artificially add nicotine to
6 our cigarettes.

02:52:14 7 Q. Did you at any point in drafting this
8 say something as directly as you just said?

9 MS. ROBBINS: I object to the form.

10 A. I don't recall.

11 MS. ROBBINS: You mean was that
12 sentence in a prior draft, is that what you are
13 asking?

14 MR. PAYTON: Yes, that's what I
15 meant.

16 A. I don't recall.

17 MS. ROBBINS: I know we are going to
18 get to the broadcast, John. February 28th, we
19 are almost there?

20 (Han Exhibit 20 for
21 identification, memo from Mr. Han to distribution
22 list, dated February 28, 1994, with attachment.)

02:54:30 23 Q. Mr. Han, I've just, or you've just
24 been handed a document that's been marked Han
25 Exhibit 20, a two-page document, cover page is a
2058457869

Han

memo from you to a distribution list, dated February 28, 1994. Has production number PA 420356 through PA 420357. Philip Morris 2022847055 to 2022847056.

Do you recognize this?

A. Yes.

Q. Did you participate in the drafting of this memo and the attached statement?

A. Yes. The statement --

MS. ROBBINS: Yes to the memo?

THE WITNESS: Yes to the memo. I mean, I probably just told Mary Ellen to send this to these guys.

Q. And the statement?

A. I believe I did, yes.

Q. What was the process by which you drafted this statement?

A. I don't have a specific recollection of the process.

Q. Well, do you recall whether or not you just drafted it by yourself?

A. Without getting other approvals?

Q. No, whether you just drafted it by yourself.

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MANHATTAN REPORTING CORP.

Han

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A. It's possible, but I don't recall.

02:56:38

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Q. You don't recall one way or the

4

other?

5

A. No, sir.

02:56:42

6

Q. Were there further consultations with

7

or calls to any of the scientists?

8

A. I do not know. I mean, there might

9

have been, I don't recall.

02:56:52

10

Q. Do you recall you participating in

11

any telephone conversations with Mr. Charles or

12

Mr. Burnley?

13

A. Vis-a-vis this specific statement?

02:57:00

14

Q. Yes.

15

A. I have no recollection one way or the

16

other.

02:57:02

17

Q. One way or the other?

18

A. Right, sir.

19

MS. ROBBINS: This would be after the

20

25th and before 1 or 1:30 on the 28th?

21

MR. PAYTON: That's a good question.

02:57:12

22

Q. Do you know if this statement was

23

also being drafted on the 24th and 25th of

24

February?

25

A. I do not believe it was.

2058457871

MANHATTAN REPORTING CORP.

Han

02:57:24 Q. Now, the 24th is a Thursday, the 25th is Friday. Monday is the 28th. Do you recall when you would have drafted this?

A. In all likelihood it would have been in the morning of the 28th.

02:57:44 Q. Do you remember if there are earlier drafts of this statement?

A. No, sir, I don't.

02:57:54 Q. Why was this statement drafted?

A. I'm not certain why this statement was drafted and released. I mean, it could have been because of the promos on Day One. I don't have a recollection.

02:58:14 Q. Do you recall that there were promos that you had seen of the Day One story?

A. No, I did not see any promos. I was told that there were promos.

02:58:26 Q. Were you told to draft this statement?

A. Undoubtedly. Yes, sir, probably.

02:58:32 Q. I mean, it wasn't your idea?

A. Probably not.

02:58:40 Q. Do you recall, was there something wrong or something that you wanted to change with

2058457872

1 Han

2 respect to the first statement that prompted the
3 second statement?

4 A. As I told you, I do not recall why
5 this statement was written and released. But I
6 don't believe that's the case.

7 MS. ROBBINS: For the record, John,
8 maybe, it was clear from the cover memos that the
9 February 25th statement was sent over to Day One,
10 it says nothing about being publicly released.
11 The statement on February 28th was publicly
12 released.

02:59:24 13 Q. Is that the difference, Mr. Han?

14 A. I'm sorry?

15 MS. ROBBINS: I'm not saying it is a
16 difference. I'm not saying anything more than
17 that they went to two different places.

02:59:34 18 Q. Does that help you remember why this
19 statement was drafted and released?

20 A. No, sir, it does not.

03:00:08 21 Q. The last sentence in the first
22 paragraph of the February 28th statement reads
23 "in fact, the manufacturing process results in
24 less nicotine in the final product than exists in
25 the unprocessed tobacco."

2058457873

1 Han

2 Do you see that?

3 A. Yes, sir.

03:00:24 4 Q. How did you know that?

5 A. How did I know that?

03:00:28 6 Q. Yes.

7 A. I gained that information from the
8 people in Richmond.

03:00:42 9 Q. Did you know it before this time
10 period, February 1994?

11 A. I don't think so.

03:00:56 12 Q. Do you know if it's possible to
13 manufacture a cigarette and not lose nicotine in
14 the process?

15 A. I don't know one way or the other.
16 That's not a field that I'm very well versed in.

03:01:16 17 Q. The next sentence of the second
18 paragraph says "Philip Morris provides its
19 customers with a range of choices in tar and
20 nicotine levels in its products."

21 Do you see that?

22 A. Yes, sir.

03:01:26 23 Q. And you knew that before this, I take
24 it?

25 A. Yes.

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Han

03:01:28 2 Q. Do you know how Philip Morris
3 achieves that range of tar and nicotine levels?

4 A. I don't know at all from a technical
5 standpoint. I only know that they do so by
6 adjusting the level of tar.

03:01:48 7 Q. What does adjusting the level of tar
8 do?

9 A. It brings the tar level in the
10 cigarette down or up, depending upon not -- well,
11 down or -- depending upon where the company
12 believes consumer preferences are regarding
13 taste.

03:02:04 14 Q. So it's your understanding that
15 adjusting the level of tar will also adjust the
16 level of nicotine?

17 A. Yes. My understanding is that yes,
18 nicotine follows tar in approximately a
19 ten-to-one ratio, or one-to-ten ratio.
20 Ten-to-one ratio.

03:02:26 21 Q. Tar and nicotine, ten/one? I think
22 that's the direction of the ratio?

23 A. I would have to look that up.
24 Ten-to-one, tar/nicotine, right.

03:02:40 25 Q. Did you know what that meant that
2058457875

1 Han

2 nicotine follows tar?

3 A. Oh, I'm not saying that I knew that
4 phrase, you know, prior to this period of time.
5 That's something that I think I probably learned
6 during this period.

03:02:56 7 Q. During this period, meaning in
8 connection with these inquiries?

9 A. Yes, sir.

03:03:00 10 Q. You learned that nicotine follows
11 tar?

12 A. Right. I believe so.

03:03:08 13 Q. Do you know what the phrase "nicotine
14 delivery" means?

15 A. From a technical standpoint I do
16 not. I mean, I just -- what it means to me just
17 from a layman's standpoint.

03:03:22 18 Q. During this time period, dealing with
19 the Day One inquiries, were you familiar with the
20 term "nicotine delivery"?

21 A. I had heard it before.

03:03:32 22 Q. What did you as a layperson
23 understand it to mean?

24 A. The amount of nicotine that is
25 delivered to the smoker.

2058457876

Han

03:03:46

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Q. Did you understand that Philip Morris provided a range of nicotine deliveries in its products?

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A. No, I don't -- I have never -- I have not heard it stated that way. So that's not something -- I'm not familiar with that phrase.

03:04:10

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9

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Q. You are familiar with the phrase nicotine delivery, but not providing nicotine deliveries in your products?

11

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A. No, I'm not familiar with that phrase. Providing nicotine deliveries, no. There is a wide range of tar and nicotine levels, I think, is the way that I would be most likely to hear it.

03:04:52

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Q. Was this statement sent to ABC?

A. I do not know. Based on my cover

note it would have been received by ABC. I don't know that we sent it directly to ABC.

03:05:12

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21

22

Q. Based on -- you mean the hand notation on your cover memo?

A. The hand notation? No.

03:05:22

23

24

Q. I see, because it went to the wire services.

25

A. Yes.

2058457877

Han

MS. ROBBINS: I think he is talking about the hand notation in the right-hand corner.

THE WITNESS: That, I don't know what that is. ABC suit, said.

Q. Yes. This is your handwriting up there, isn't it, that little notation up there?

A. This time I'm not sure.

Q. I believe that says ABC suit.

A. So that was probably somebody just filing it or something.

Q. You are not saying you had decided to sue ABC before the story ran?

A. No, sir.

(Han Exhibit 21 for identification, fax to Mr. Han from Mr. Parrish, with attachment.)

Q. Mr. Han, you've just been handed a document that's been marked Han Exhibit 21, two-page exhibit. First page is a fax page, indicates a transmission to you from S. Parrish, and it attaches a statement. It's marked PA 100373 to PA 100374. Philip Morris production 2023913554 through 2023913555.

2058457878

Han

Do you remember receiving this fax?

A. No, I don't. I'm not saying that -- I'm sure I did, because that's my handwriting on top of it, but I don't remember receiving it.

Q. If you turn to the second page, the writing that says "file Day One," that's your handwriting?

A. That is my handwriting.

Q. Is the handwriting at the bottom your handwriting?

A. No, sir, it's not.

Q. Do you know whose that is, "copies," it shows Merlo, Han?

A. I believe it's Mr. Parrish's handwriting, but I'm not a hundred percent certain.

Q. I see, and these are the people that would have been faxed it, I presume. What's the third name, Adrotti?

A. And Andre.

Q. Who is that?

A. He is a lawyer and he is currently in the world regulatory affairs group.

Q. What was he then?

2058457879

Han

A. At this time -- at this specific time I do not recall what his actual position and title were.

03:09:10 Q. Was he functioning as a lawyer?

A. Yes, sir, he was. February 28th? Yes, he was functioning as a lawyer. I'm just trying to -- I can't place him physically right now.

03:09:38 Q. Can you place him by department?

A. I think he was with international. And I don't know that he was a Philip Morris employee at the time. I believe he was. I believe he was a seconded attorney.

03:09:58 Q. Seconded from Philip Morris International?

A. No, seconded in Philip Morris International from his law firm.

03:10:06 Q. Do you know what his law firm was?

A. Shook Hardy & Bacon.

03:10:10 Q. Do you know where he was physically?

A. At this time I'm not certain, I believe he was in Lausanne, but I am not certain. L-a-u-s-a-n-n-e, Switzerland.

MS. ROBBINS: That's where we could

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MANHATTAN REPORTING CORP.

1 Han

2 have gone to take Buffy's deposition.

3 MR. PAYTON: I was willing.

03:10:42 4 Q. Do you recall this statement, this is
5 a statement, it says "for TI use in responding to
6 media inquiries." That's the Tobacco Institute?

7 A. Yes, sir.

03:10:50 8 Q. Do you recall this statement?

9 A. I do not.

03:11:14 10 Q. Did you often coordinate statements
11 with the Tobacco Institute that related to
12 concerns that the industry had about various
13 issues?

14 A. There would be occasions that we did
15 that, yes, sir.

03:11:32 16 Q. Do you know if you saw this in draft
17 form or would you have seen a statement like this
18 in draft form?

19 MS. ROBBINS: Are you suggesting this
20 isn't a draft? I mean, I don't know whether it
21 is or it isn't. I just don't know.

22 MR. PAYTON: That's a good question.

23 A. Did I see this in draft form?

03:11:52 24 Q. Do you know if this is a draft?

25 A. Oh, I do not know.

2058457881

MANHATTAN REPORTING CORP.

Han

03:11:56 2 Q. Do you know if this is the kind of
3 statement that would have been run by you in
4 draft form or run by someone in Philip Morris in
5 draft form?

6 A. Based on the statement, I can't say.
7 It would be based on the circumstances. And I
8 don't know whether this particular circumstance
9 applies. I don't know.

03:12:24 10 Q. Do you see the second paragraph,
11 where it says "nicotine levels."

12 A. Yes.

03:12:28 13 Q. Do you know if that is referring to
14 the same thing as nicotine delivery?

15 A. I don't know. I don't know that
16 levels and delivery are the same thing. I don't
17 believe that they are. I don't think they are.

03:12:46 18 Q. Let's go to the third paragraph.
19 There is a term in the very last line of the
20 third paragraph, you can read the whole third
21 paragraph, but I'm only focusing on the term
22 "average nicotine rating."

23 Do you see that?

24 A. Yes, I do.

03:13:00 25 Q. Do you know if that is the same thing

2058457882

Han

as nicotine delivery?

A. Again, I can't say for certain. I do not believe that it is.

03:13:14 Q. Is it the same as nicotine level?

A. That I believe they are synonymous, but I'm not sure.

03:13:22 Q. Do you know if Philip Morris was asked to provide any information in connection with the drafting of this statement by the Tobacco Institute?

A. I do not know. I do know not know. I'm not aware that we were.

MS. ROBBINS: Was Philip Morris asked by the Tobacco Institute?

MR. PAYTON: Yes.

A. I'm not aware that we were and I don't know.

03:13:58 Q. Did you watch the February 28th Day One broadcast?

A. I saw it, yes.

03:14:04 Q. Did you see it when it ran the first time?

A. I do not believe so, no.

03:14:08 Q. When do you think you first saw it?

2058457883

MANHATTAN REPORTING CORP.

1 Han

2 A. I believe I saw it the following
3 morning at the office.

03:14:16 4 Q. Did you see it by yourself or with
5 other persons?

6 A. That I do not recall.

03:14:46 7 Q. Do you remember the reaction you had
8 to the broadcast, if you had one?

9 A. My reaction to the broadcast, I
10 believe, was not emotional, but simply an
11 assessment of what the program said, and that
12 assessment was they are saying that we spike
13 other cigarettes. I do not usually get too upset
14 one way or the other about good stories or bad
15 stories. You would kill yourself doing that.

03:15:26 16 Q. Any other reaction you can remember?

17 A. That's all I could recall right now.

03:15:54 18 Q. Do you know if other members of the
19 tobacco industry, cigarette manufacturers, spike
20 their cigarettes with nicotine?

21 A. Do I know if they do?

03:16:06 22 Q. Yes.

23 MS. ROBBINS: Based on personal
24 knowledge?

25 MR. PAYTON: Based on however you

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1 Han

2 would have acquired that information.

3 A. What I've understood in conversations
4 is that no, nobody in the industry does do that.

03:16:24 5 Q. Who told you that?

6 A. I can't be specific as to any
7 individual, but during the course of these days
8 I'm fairly certain that that -- well, I am, I'm
9 certain that that statement was made probably
10 more than once in my presence.

03:16:40 11 Q. During the course of these days, are
12 you including, for example, the meetings and
13 conversations that you participated in on the
14 24th and 25th of February?

15 A. I'm referring primarily to from the
16 25th -- from the 25th and the days following the
17 program.

03:17:02 18 Q. That there were discussions about the
19 industry as a whole?

20 A. No, I'm not saying that. I'm just
21 saying that there were statements made during the
22 course of those days that indicated to me, from
23 people who I believed to be knowledgeable on the
24 subject, that none of the major tobacco companies
25 spike their cigarettes with extra nicotine.

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1 Han

2 MS. ROBBINS: If you are going to do
3 a long thing on this, could we take a break?

4 MR. PAYTON: Sure.

5 THE VIDEO OPERATOR: It is 3:17, this
6 is the end of tape No. 5 of the deposition of
7 Victor Han. 3:17, and we are off the record.

8 (A recess was taken.)

9 THE VIDEO OPERATOR: Today is June 9,
10 1995. This is the beginning of tape No. 6 of the
11 deposition of Victor Han. It is 3:42, and we are
12 back on the record.

13 (Han Exhibit 22 for
14 identification, transcript of the February 28,
15 1994 Day One broadcast.)

16 MS. ROBBINS: This was the version
17 that was produced to you.

18 BY MR. PAYTON:

03:43:20 19 Q. I'm going to have marked or it's
20 already been marked as Han Exhibit 22, a
21 transcript of the February 28, 1994 Day One
22 broadcast. This is a version of the transcript
23 that I believe came from your files, Mr. Han. It
24 has production number PA 839172 through PA
25 839180. And it has Philip Morris production

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MANHATTAN REPORTING CORP.

1 Han

2 number 2023913837 through 2023913845.

3 Do you recognize this as a transcript
4 that you --

5 A. Yes, I recognize it as a transcript.

03:44:00 6 Q. Do you recall actually having a copy
7 of the transcript in your files?

8 A. Yes, I do.

03:44:08 9 Q. Is this a transcription service that
10 Philip Morris contracts with?

11 A. Yes, it is. Video Monitoring
12 Service.

03:44:16 13 Q. How quickly did they get you a
14 transcript?

15 A. I believe they can get it within
16 several hours after an actual broadcast,
17 depending upon what time of day it is.

03:44:32 18 Q. Do you remember when you got this
19 transcript?

20 A. No, sir, I don't.

03:44:36 21 Q. Do you remember if it was the same
22 day? This is an evening broadcast.

23 A. Did I receive it in the evening of
24 the 28th?

03:44:48 25 Q. The Day One broadcast is the evening

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~~MANHATTAN REPORTING CORP.~~

Han

of the 28th.

A. Right.

Q. You say you first actually saw the broadcast the next morning, March 1?

A. That's what I believe, right.

Q. Do you have a recollection as to when you would have received this transcript?

A. I believe it would have been the Monday -- sorry, Tuesday morning following the broadcast.

Q. On March 1?

A. March 1.

Q. You said you had an overall reaction to the story, which was about spiking. You have to say yes.

A. I'm sorry, yes, sir.

Q. Do you remember having any other specific responses to the broadcast that you saw on March 1?

A. Just that I believe that it was an inaccurate charge.

Q. But no other specifics from what was in the story? I'm going to go over the story.

A. I don't have a recollection at this

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MANHATTAN REPORTING CORP.

Han

1
2 point, no.

03:46:06 3 Q. What did you do after you saw the
4 broadcast? Was there a meeting, did people get
5 together and talk about it?

6 A. There was a meeting early that
7 morning, yes, sir.

03:46:20 8 Q. Who was present at the meeting?

9 A. Oh, gosh.

03:46:26 10 Q. Let me sort it out a little bit more
11 easily. Was it a meeting within the
12 communications department or was it a meeting
13 that went outside the communications department?

14 A. I believe it went outside the
15 communications department.

03:46:40 16 Q. Who do you recall being in the
17 meeting?

18 A. I would have to guess. I don't
19 have --

20 MS. ROBBINS: If you have some
21 recollection of just some people, then tell
22 Mr. Payton. I don't want you just to be
23 guessing. But if you have some recollection, you
24 should testify to that.

25 A. Mr. Parrish, Mr. Wall, Mr. Bring,

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MANHATTAN REPORTING CORP.

Han

that's Murray Bring, Ellen Merlo. I have no doubt there were more. I can't remember any more with any certainty.

03:47:28 Q. And everyone was physically present?

A. Of the people that I mentioned, I believe so. That's not to say there wasn't somebody on the phone too.

03:47:36 Q. Do you remember one way or the other?

A. I'm sorry, I don't.

03:47:44 Q. By the way, were you surprised by the story?

MS. ROBBINS: Well, I will object to the form of the question.

A. I'm not surprised by many things relating to news coverage about my company or the industry. So did I jump out of my seat in surprise at what I saw, no, sir.

03:48:20 Q. Did you think the story was different from the inquiries you received on the 23rd that are reflected in the E-mail of the 24th of February?

A. I can't remember what I thought about that relationship at the time.

03:48:34 Q. Right now, do you think that the

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Han

story was different than what was in the inquiry contained in that E-mail?

A. Let me look at that one more time.

Q. Sure, it's Exhibit 2, page 7 to 8.

MS. ROBBINS: We all know it by heart. 7 to 8?

MR. PAYTON: Right.

MS. ROBBINS: Are you talking about the whole E-mail, or just the 1, 2, 3?

MR. PAYTON: I mean the E-mail of the 24th, the whole E-mail.

MS. ROBBINS: The whole E-mail?

MR. PAYTON: Yes.

MS. ROBBINS: Including the general part?

MR. PAYTON: Yes.

A. The actual program reflects the message here in the E-mail that cigarette companies are artificially adding nicotine to cigarettes rather than naturally using tobacco leaf. Certainly that's part of the program. I would say the program made it a little bit -- dressed that up quite a bit. But that's the subject of the program.

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Han

03:50:16

Q. The substance of the program is pretty close to what's in the E-mail?

MS. ROBBINS: It's been asked and answered. He just answered your question.

MR. PAYTON: I know.

A. I would say so.

03:50:46

Q. What was the purpose of the meeting that you recall occurring, even though you didn't recall everyone that was present on March 1, the one that Mr. Parrish, Mr. Wall, Mr. Bring, Ms. Merlo may have attended along with you?

MS. ROBBINS: Now, just let me caution you, you can answer that question, this is obviously a meeting at which lawyers were in attendance. I just want to caution you there are privileged issues here, and be careful.

The question was what was the purpose of the meeting?

A. The purpose of the meeting, I believe, was to get everybody's impressions of the program and what, if anything, should be done about it.

03:51:58

Q. Was there a general impression of the program that people shared?

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1 Han

2 MS. ROBBINS: You are getting into
3 asking questions about what is clearly a
4 privileged meeting. I'm not going to let him
5 answer questions about what people said or
6 thought at the meeting.

7 MR. PAYTON: You are not going to let
8 him answer as to what people's impressions were
9 of the program?

10 MS. ROBBINS: Well, I don't know what
11 you mean by "impression." To the extent that
12 those impressions include a legal analysis by
13 lawyers or legal advice, no, I am not going to
14 let him answer that.

03:52:36 15 Q. For the purposes of this question,
16 I'm not interested in legal advice or analyses at
17 all. I simply want to know if you understood
18 what persons who were present at this meeting
19 thought of the content of the program. What did
20 they think the program was saying?

21 A. Saying?

03:52:56 22 Q. Yes.

23 MS. ROBBINS: And you are not talking
24 about this in any way from a legal perspective?

25 MR. PAYTON: I'm not.

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Han

MS. ROBBINS: Lawyers giving their view of any kind of legal issue with respect to -- because what the program was saying can include legal issues, John.

MR. PAYTON: I understand that.

A. Well, I think the general feeling of the people who were in that meeting felt the program was very negative. I believe they all agreed that we had been charged with spiking our cigarettes, and the industry had been charged with spiking their cigarettes, with nicotine. The belief was it was not true. That's about all I can think of right now.

03:54:04 DIR Q. Do you know if anybody who was in this meeting was surprised by the program, given the inquiries that Philip Morris had received from Day One on the 23rd of February.

MS. ROBBINS: Just hold on a minute. I don't think that you should properly be asking him questions about what was discussed at the meeting. I think the meeting -- the discussion at the meeting is clearly privileged for all people at the meeting. Were people surprised, did people say I'm surprised? I don't even

2058457894

1 Han

2 understand this question. But as to any
3 discussion at the meeting, I'm going to instruct
4 the witness not to answer any questions any
5 further about what was discussed at the meeting.

6 MR. PAYTON: Let me try it one more
7 time.

03:54:54 8 DIR Q. Do you think that -- do you remember
9 if the story that was broadcast on the 28th of
10 February by Day One was viewed as being different
11 from the story that they thought was being
12 inquired about on the 23rd of February?

13 MS. ROBBINS: By the people at the
14 meeting?

15 MR. PAYTON: Yes.

16 MS. ROBBINS: Again, the only way he
17 could know that is from discussion that took
18 place at the meeting. And I'm not going to let
19 him answer questions with respect to what was
20 discussed at the meeting.

21 MR. PAYTON: You are going to
22 instruct him not to answer?

23 MS. ROBBINS: I'm going to instruct
24 him not to answer on the grounds of privilege.

03:55:46 25 Q. Do you accept the instruction from

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MANHATTAN REPORTING CORP.

Han

your lawyer?

A. Oh, yes, sir.

Q. This meeting was on the morning of March 1; is that right?

A. Yes, sir.

Q. Was this a scheduled meeting?

A. Yes, sir.

Q. Was it scheduled before March 1?

A. Yes, sir.

Q. When was it scheduled?

A. Friday afternoon, I believe. I'm sorry, the program aired, probably sometime on Monday.

Q. Monday the 28th a meeting on March 1 to I guess review the program was scheduled?

A. Yes, sir, to -- yes.

Q. You have the transcript in front of you?

A. Yes.

Q. That's been marked as Exhibit 22. Looking at the first paragraph, you can read the entire first paragraph if you want, I want to focus on the sentence almost right in the center, "for nearly a year Day One has been

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MANHATTAN REPORTING CORP.

1 Han
2 investigating nicotine, the ingredient in
3 cigarettes that keeps smokers addicted."

4 Do you see that?

5 A. Yes, I do.

6 MS. ROBBINS: While he is reading the
7 rest of the paragraph, I would just like to say
8 about this transcript, which I understand was
9 produced from his files, it is not a totally
10 complete transcript, which you may be aware of
11 John. And for the record, it is not.

12 MR. PAYTON: Barbara let me ask you a
13 question.

14 MS. ROBBINS: Sure.

15 MR. PAYTON: Is there a version of
16 the transcript that the parties agree upon?

17 MS. ROBBINS: I don't know the answer
18 to that. I do know that this one is not
19 complete.

20 MR. PAYTON: Okay. Do you know the
21 version of the transcript that's being used in
22 the depositions of ABC folks?

23 MS. ROBBINS: I think it looks more
24 like yours.

25 MR. PAYTON: Like this?

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Han

MS. ROBBINS: That format than this format. But I don't know that that means it is an agreed to version. Only that that's what I think is being used.

MR. PAYTON: I have -- we have one clean copy of this.

MS. ROBBINS: Okay.

MR. PAYTON: So that means I don't have one for you.

MS. ROBBINS: Okay.

MR. PAYTON: Let's mark this.

(Han Exhibit 23 for identification, transcript of the February 28, 1994 Day One broadcast.)

03:59:56 Q. Mr. Han, you have now been handed what's been marked as Han Exhibit 23, which is another version of the transcript of the March -- the February 28, 1994 Day One broadcast. It has production numbers on it but I can't read them on mine. Can you read off the production numbers?

A. They are cut off -- well, I have one that says JM 200652. That's the last page.

04:00:26 Q. That's all right. This is an eight-page document.

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MANHATTAN REPORTING CORP.

Han

MR. PAYTON: And, Barbara, I will see that you are sent a copy of this.

MS. ROBBINS: That's fine.

Q. It says Day One transcript, No. 152. Do you see that there?

A. Yes.

Q. Have you seen this version of the transcript before?

A. No, sir.

Q. I just want to ask you a few questions about things that are in the transcript. This has as the second person speaking, Cliff Douglas.

Do you see that?

A. Yes, I do.

Q. And the transcript has Mr. Douglas saying "the industry manipulates nicotine, takes it out, puts it pack in, uses it as if it were sugar being put in candy."

Do you see that?

A. Yes, I do.

Q. Are you familiar with nicotine being taken out and put back in in the cigarette manufacturing process?

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MANHATTAN REPORTING CORP.

Han

1
2 MS. ROBBINS: Is he familiar with
3 that sentence?

4 MR. PAYTON: No, with that process
5 that is being described in that sentence.
6 "Manipulating nicotine by taking it out and
7 putting it back in."

8 A. No, sir, not the way that sentence
9 is, no.

04:01:38 10 Q. Are you familiar with the phrase
11 "manipulating nicotine"?

12 A. Sure, yes.

04:01:44 13 Q. Do you know if Philip Morris
14 manipulates nicotine in connection with
15 manufacturing cigarettes?

16 A. My understanding, from what I've been
17 told and what I've seen, is that it does not.

04:01:56 18 Q. Do you know if Philip Morris, in the
19 course of its process of manufacturing
20 cigarettes, takes nicotine out and puts nicotine
21 back?

22 A. I know that in the recon process
23 many, many, many water soluble components come
24 out and are applied back to the tobacco sheet.
25 And one of those components is nicotine.

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Han

04:02:28

Q. So in connection with the reconstituted tobacco process, you understand that nicotine is among the things that is taken out and put back in?

A. Yes.

04:02:40

Q. Do you consider that to be manipulation?

A. No.

04:02:50

Q. What would be manipulation?

MS. ROBBINS: I object to the form of the question.

04:02:56

Q. If taking it out and putting it back in is not manipulation, what would be manipulation?

A. Well, I guess -- when I hear the term "manipulate," in the context of this program, in the context of that statement, that's not what -- this statement says we are doing something nefarious with it, something, I guess, meaning putting more in. That's -- we don't do that. So that would be my understanding of the use of that term in this particular sentence.

04:03:32

Q. That it's somehow nefarious?

A. Yes.

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Han

MS. ROBBINS: And he also said more.

04:03:42 Q. The sentence says "the industry
manipulates nicotine, takes it out, puts it back
in."

A. "Uses it as if it were sugar being
put in candy."

04:03:54 Q. Does that say anywhere about adding,
putting more in?

A. No, but the word "manipulates," to
me, in the way this sentence is put together by
Mr. Douglas, that's the point he is making.

04:06 Q. Do you know who Mr. Douglas is?

A. Yes, I do.

04:04:10 Q. Who is he?

A. He is an anti-tobacco activist. I
believe he is also an attorney, and I believe he
is taking credit for working with ABC on this
story.

04:04:22 Q. Who told you that?

A. He put it in his press release.

04:04:28 Q. You've seen a press release from
Mr. Douglas that takes credit for what?

A. For this story that appeared on ABC
Day One.

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Han

04:04:42 Q. When did you see this press release?

A. I saw it last August.

04:04:56 Q. Do you know anything beyond the press release about his role in this?

A. Besides his appearing in the program, no. No, just that I read that in the press release, his press release.

04:05:12 Q. The next speaker is John Martin.

Do you see that?

A. Yes, sir.

04:05:16 Q. And this sentence reads "why are you artificially spiking your cigarettes with nicotine?"

Do you see that?

A. Yes.

04:05:24 Q. This is the sentence that you recall with regard to spiking?

A. This is the sentence that I recall, yes. And also of course the news coverage following the program used the term, I believe. And so did many other people afterwards.

04:06:02 Q. I'm going to go to the second column where it says "Smoke Screen," you can look at the rest of the transcript, if you want. But let me

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1 Han

2 represent to you there are a few more lines that
3 relate to this story which I've skipped over, the
4 Mount Sinai and the R.J. scientist, but most of
5 the rest of the first column is about the other
6 stories that were on Day One that night.

7 A. I see that.

04:06:28 8 Q. I'm going to go to the actual
9 beginning of the story, which is "Smoke Screen,"
10 at the top of the second column.

11 A. Yes.

04:06:36 12 Q. And this has Forrest Sawyer beginning
13 the story. Okay?

14 A. Yes.

04:06:38 15 Q. And I'm at the end of that first
16 paragraph.

17 MR. PAYTON: Which, Barbara, in the
18 transcript you are looking at is the first
19 paragraph of your transcript.

04:06:50 20 Q. And it reads "For nearly a year, Day
21 One has been investigating nicotine, the
22 ingredient in cigarettes that keeps smokers
23 addicted. And we've discovered that cigarette
24 manufacturers have been carefully controlling
25 levels of nicotine in cigarettes."

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MANHATTAN REPORTING CORP.

Han

Does Philip Morris agree that nicotine is the ingredient that keeps smokers addicted?

A. No, sir.

Q. Does Philip Morris believe that nicotine plays a role in smokers continuing to smoke?

MS. ROBBINS: You are asking him what Philip Morris believes on this issue?

MR. PAYTON: Yes.

MS. ROBBINS: If you can answer that.

A. It is one of the reasons people smoke. Nicotine is one of the reasons people smoke.

Q. This is a question that media inquire about not infrequently, isn't it, of Philip Morris?

A. Is nicotine one the reasons people smoke?

Q. Yes.

A. Not in that manner, no.

Q. Is it a question that you knew Philip Morris' -- did you know Philip Morris' position

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MANHATTAN REPORTING CORP.

Han

with respect to nicotine and why people keep smoking?

MS. ROBBINS: He is asking you whether you know what Philip Morris' position is, if it has one, with respect to nicotine and whether --

MR. PAYTON: And why people keep smoking.

A. Nicotine and why people keep smoking. I have some knowledge of those issues, yes.

08:38 Q. Mr. Han, would it be fair to describe you at that time, February, March 1994, as the chief spokesperson for Philip Morris?

A. No.

04:08:50 Q. Who was?

A. I think it would be difficult to say that we have a chief spokesperson.

04:08:56 Q. Were you one of the principal spokespersons for Philip Morris?

A. How would you describe "principal?" I'm not trying to -- I mean that. In concerns of who did the most?

09:12 Q. Media inquiries about virtually all

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MANHATTAN REPORTING CORP.

1 Han

2 sorts of things would come into your department?

3 A. That's correct.

04:09:18 4 Q. And be responded to under your
5 supervision?

6 A. That's correct.

04:09:20 7 Q. And you would give answers to those
8 media inquiries on behalf of Philip Morris?

9 A. I would give some.

04:09:28 10 Q. Some answers, that's right.

11 A. Yes.

04:09:30 12 Q. And when you didn't know the answer,
13 you would have someone else give the answer or
14 find out the information and give the answer?

15 A. That's basically correct, yes.

04:09:38 16 Q. The question I'm asking you is about
17 what Philip Morris' position was with respect to
18 nicotine's role in people continuing to smoke.

19 Did you know the answer to that
20 query?

21 A. Only that nicotine as a flavor
22 component in the smoke is one of the reasons why
23 people smoke.

04:10:00 24 Q. Did you understand that nicotine was
25 a flavor or that it was simply one of the reasons

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1 Han

2 people continued to smoke?

3 MS. ROBBINS: I object to the form.

4 A. I knew it as what I said, you know.

04:10:20 5 Q. You didn't make the distinction I
6 made? I'm asking whether or not when you
7 characterized nicotine as a flavor, that was a
8 deliberate characterization, did you understand
9 nicotine was a flavor or did you simply
10 understand that nicotine was one of the reasons
11 that people continued to smoke?

12 A. I understand nicotine is -- has a
13 flavor characteristic and the flavors, among
14 other, many other reasons, are reasons why people
15 smoke.

04:11:02 16 Q. Does nicotine have a sensory
17 characteristic? Do you know what that means?

18 A. I'm not sure what you mean by that.

19 MS. ROBBINS: So I will object to the
20 form.

04:11:16 21 Q. Sensory is a word that Philip Morris
22 sometimes uses. Are you a familiar with Philip
23 Morris, the company, using the term "sensory"?

24 MS. ROBBINS: Sensory
25 characteristics?

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Han

04:11:26 2 Q. Sensory characteristic, sensory
3 attribute.

4 A. Yes, I guess I am. I've heard it
5 before.

04:11:34 6 Q. Does nicotine have some sensory
7 attributes to it that result in it being one of
8 the reasons that people continue to smoke?

9 MS. ROBBINS: Are you asking him
10 whether he knows that personally or whether the
11 company -- whether he knows what the company's
12 view about that is?

13 MR. PAYTON: I'm going to ask him if
14 he knows that personally, then I'm going to ask
15 your question.

16 A. The problem that I'm having is that I
17 suspect that the term has certain technical
18 definitions that I do not know or understand.
19 And I'm just interpreting it from a layman's
20 perspective. And if you are going to ask me
21 about that term regarding -- and the company's
22 position to it, I'm probably not able to really
23 deal with that. Because I don't know.

04:12:24 24 Q. Do you know if nicotine had a
25 nonflavor attribute that caused it to play a role

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1 Han

2 in people continuing to smoke?

3 A. I'm aware of people's views that that
4 is the case, yes.

04:12:38 5 Q. Did Philip Morris agree that nicotine
6 had a nonflavor attribute that caused it to play
7 a role in people continuing to smoke?

8 A. Are you talking about at this time?

04:12:48 9 Q. Yes, at that time.

10 MS. ROBBINS: Did he know Philip
11 Morris' view as to that?

12 MR. PAYTON: Yes.

04:12:56 13 Q. Could you ask me one more time, I'm
14 sorry.

04:13:02 15 Q. Did Philip Morris agree that nicotine
16 had a nonflavor attribute that caused it to play
17 a role in people continuing to smoke?

18 A. A nonflavor attribute? I'm sorry,
19 I'm drawing a blank on that. So I don't know the
20 answer.

04:13:38 21 Q. How did you come to believe that
22 nicotine was a flavor? Or did you?

23 A. Well, it was information that was
24 provided to me. I also know that the --
25 cigarettes with lower tar and nicotine also taste

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Han

different. The Next cigarette, that did not have -- well, was almost completely free of nicotine, tasted very different. It was a reason given by consumers for not liking it.

04:14:42 Q. Did cigarettes with lower tar taste different or did cigarettes with lower nicotine taste different?

9 A. Cigarettes with lower tar have lower nicotine.

04:14:56 Q. Are you aware of any studies by Philip Morris on cigarettes that had the same nicotine and different tar?

14 A. Am I personally aware of any?

04:15:06 Q. Yes.

16 A. No, sir. Same nicotine and different tar, no, sir.

04:15:12 Q. You weren't aware that any such studies were being done by Philip Morris?

20 A. No.

04:15:28 Q. You mentioned Next, that's the denicotinized cigarette that Philip Morris?

23 A. Yes, sir. I'm glad you said that, because I can't.

04:15:38 Q. They developed it late '80s, early

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Han

'90s?

A. Yes. I don't know how long it was under development. I believe it was test marketed in the early '90s, '91, perhaps. '90.

Q. Is it your understanding that there was a taste problem that related to the absence of nicotine?

A. I was told that consumer questioning after the fact, the reason why they didn't like it was attributed to taste.

Q. Who told you that?

A. I've heard it. I can't be specific. I've heard it from numerous people from inside the company.

Q. Are you aware of any study that Philip Morris did on its Next cigarette in which they added back nicotine to see what the result of panels was to the denicotinized cigarette with the nicotine added back?

A. No, sir.

Q. Not aware of any such study?

A. No, sir.

Q. The last part of this same sentence, I was reading you the sentence at the end of the

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MANHATTAN REPORTING CORP.

Han

first paragraph at the second column, which is about, I read you the part about nicotine and smokers' addiction. The second part of the sentence is "we've discovered that cigarette manufacturers have been carefully controlling levels of nicotine in cigarettes."

Do you see that?

A. Yes.

04:17:20 Q. Does Philip Morris agree that cigarette manufacturers have been carefully controlling levels of nicotine in cigarettes?

A. No, sir.

04:17:30 Q. Hasn't Philip Morris been carefully controlling the levels of nicotine in its cigarettes?

A. No, sir.

04:17:34 Q. What has it been doing?

A. It controls for tar.

04:17:38 Q. Well, if controlling for tar controls for nicotine, do you agree with that?

A. Well, I say that, as I've said before, that nicotine follows tar. But if you are going to control something, I guess my opinion is that you are going to be doing

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MANHATTAN REPORTING CORP

Han

something specifically at the thing you want to control. And I'm saying here that what is controlled and what the company does is deals with the tar levels.

04:18:08 Q. If I change the tar level, would that change the nicotine level?

A. Yes, sir, I believe so. From my understanding.

04:18:18 Q. And if I therefore control the tar level, do you agree that Philip Morris controls the tar level of its cigarettes?

A. Yes, sir, from what I understand.

04:18:28 Q. Doesn't that also necessarily control, as you understand it, the nicotine level?

MS. ROBBINS: Asked and answered.

A. Not the way that I look at it. Because I'm saying that -- let's see, how do I put it, what's an analogy? That's not a good analogy. I turn a steering wheel, that's all I'm trying to do, is just turn the steering wheel, that's my only purpose of it and that's the control I'm exhibiting, and it just so happens the car also moves in a different direction.

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2 In this particular case, I'm saying,
3 my understanding, and obviously I'm not in this
4 side of the business, is that the industry
5 manufactures the cigarettes based on taste and
6 flavor. And doing that is done primarily by
7 adjusting for tars.

04:19:30 8 Q. Do you know how Philip Morris
9 controls the tar level in its cigarettes?

10 A. Only in the most general sense.
11 Meaning just the blends and filtration paper
12 processes.

13 MS. ROBBINS: You are getting into
14 areas where he really doesn't have any expertise,
15 John.

16 MR. PAYTON: He can just tell me
17 that.

18 THE WITNESS: I don't have any
19 expertise in this, John.

04:19:56 20 Q. Mr. Han, I want to go down to the
21 paragraph that begins "John Martin, ABC News."

22 A. Yes.

04:20:06 23 Q. Again, you can go ahead and read the
24 intervening text if you like.

25 MS. ROBBINS: "From these tobacco
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2 fields," that paragraph, John?

3 MR. PAYTON: Actually I'm going to --
4 yes, "from these tobacco fields," that's the
5 paragraph, it's the last sentence I'm going to
6 focus on.

7 "In reality, cigarettes are a
8 complex scientifically engineered product, about
9 which little is known publicly."

04:20:34 10 Q. I take it you personally agree with
11 that?

12 A. The notion that I agree with is that
13 it is complicated. That is, it's highly
14 technical. But let me add one thing. In the
15 instructions I've had about the cigarette
16 manufacturing process, the way I've described it
17 to people, is that it's conceptually very simple,
18 but it's technically very complicated.

04:21:06 19 Q. Give me the simple conception here.

20 A. Tobacco, paper and filters.

21 MS. ROBBINS: That's good.

04:21:12 22 Q. That's almost simple to being
23 misleading, don't you think?

24 A. No, I don't.

21:20 25 Q. Did you -- isn't it the case that

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2 about 10 percent of what's in a cigarette is
3 chemicals?

4 A. Oh, I don't know.

04:21:26 5 Q. You don't know?

6 A. No.

04:21:40 7 Q. Have you ever seen the ingredient
8 list? Maybe I asked you that earlier. Have you
9 ever seen the ingredient list that used to be
10 filed with HHS?

11 A. Still is. Yes, I saw the ingredients
12 list when it was released to the public.

04:21:56 13 Q. There is several hundred things that
14 none of us could pronounce on there.

15 A. 499 of them, I believe.

04:22:02 16 Q. Am I right that these are very
17 technically appearing terms, I don't know what
18 they are.

19 A. Technically appearing is a good way
20 to describe it, yes.

21 MS. ROBBINS: They don't all go into
22 ever cigarette.

23 MR. PAYTON: I understand that.

04:22:16 24 Q. It's an industry list, but it's a
25 list full of what appear to be technical

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descriptions of chemical compounds.

A. And substances, yes. Similar to -- I mean, a food product, for example, would also, I'm not saying it would have all those same things, but also a way it would be described would also be technical and complicated as well.

04:22:42 Q. Let's go down to the next item that follows John Martin. It is three paragraphs down. John Martin says "one ingredient contained in these tobacco leaves."

Do you see that?

A. Yes, sir.

04:22:54 Q. "Is known nicotine."

A. Yes.

04:22:56 Q. "The 1988 Surgeon General's report identified nicotine as a highly addictive drug and said this is why smoking can be as difficult to quit as heroin or cocaine."

Are you familiar the 1988 Surgeon General's report?

A. What do you mean by "familiar"?

04:23:10 Q. Have you reviewed it?

A. I have probably glanced at certain passages of it. But I have not read it from

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cover to cover.

04:23:18 Q. Do you know if you had that on your shelf in your office at this time?

A. No, I did not.

04:23:26 Q. You simply had reviewed some selected pages from it, or do you recall?

A. I don't recall.

04:23:32 Q. Do you recall enough to know if this sentence is accurately describing the 1988 Surgeon General's report as having identified nicotine as a highly addictive drug?

A. My belief is that I have learned or known for some time that that general statement, the essence of that statement, is in fact in the 1988 Surgeon General's report. And of course differs from previous Surgeon General's reports.

04:24:02 Q. And that the 1988 Surgeon General's report said that "the presence of nicotine is why smoking can be as difficult to quit as heroin or cocaine"?

A. That I don't know.

Q. You don't remember that?

A. I don't recall if that comparison is made. It's certainly a comparison that is made

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by Dr. Henningfield on a very frequent basis.

04:24:16 Q. And Dr. Henningfield, who is referred to in the next sentence, is the Henningfield that I asked you about earlier about whether or not you had a file on him. Is that right?

A. That's correct.

04:24:26 Q. And he is one of the authors of the 1988 Surgeon General's report. Did you know that?

A. No, I did not.

MR. PAYTON: It's about 4:30 by my watch. And this either stops now or it goes on for about an hour.

MS. ROBBINS: About an hour? We vote for stop now. I think that's the best we can do.

(Continued on following page.)

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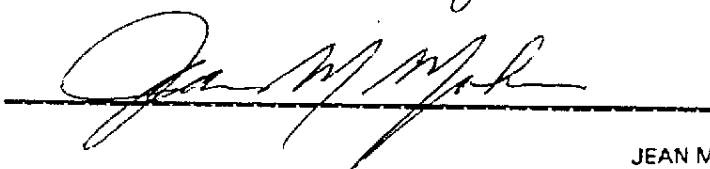
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THE VIDEO OPERATOR: It is 4:25, this
is the end of tape No. 6 and this concludes
today's taping of the deposition of Victor Han.
It is 4:25, and we are off the record.



VICTOR HAN

Subscribed and sworn to before me
this 5th day of August, 1995.



JEAN M. MAHON
Notary Public, State of New York
No. 4812992
Qualified in New York County
Commission Expires SEPT 30, 1996

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C E R T I F I C A T E

STATE OF NEW YORK)

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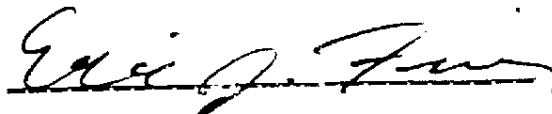
COUNTY OF NEW YORK)

I, ERIC J. FINZ, a Shorthand Reporter
and Notary Public within and for the State of New
York, do hereby certify:

That VICTOR HAN, the witness
whose continued deposition is hereinbefore set
forth (pages ^ through ^) was previously duly
sworn, and that such continued deposition is a
true record of the testimony of said witness.

I further certify that I am not
related to any of the parties to this action by
blood or marriage, and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto
set my hand this 12th day of June, 1995.



ERIC J. FINZ

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E X H I B I T S

DESCRIPTION	PAGE	LINE
(Han Exhibit 11 for identification, document entitled "Corporate Affairs Issues Handbook.").....	211	2
(Han Exhibit 12 for identification, E-mail from Sheila Banks, dated April 9, 1993.).....	215	16
(Han Exhibit 13 for identification, document entitled "Philip Morris International Spokesperson's Guide," dated April 1990.).....	219	21
(Han Exhibit 14 for identification, document, production numbers PA 838417 through PA 838434.).....	223	2
(Han Exhibit 15 for identification, document, production number PB 118607.)..	231	2
(Han Exhibit 16 for identification, letter to the Honorable John Dingell from Fran Du Melle, Scott Ballin and Alan Davis, dated October 21, 1991.).....	235	22
(Han Exhibit 17 for identification, document entitled "Media Affairs Call Report, 2/18/94 to 2/25/94.").....	237	22

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E X H I B I T S (Continued)

DESCRIPTION	PAGE	LINE
(Han Exhibit 18 for identification, document entitled "Media Affairs Call Report, 1/26/94 through 2/4/94.").....	238	19
(Han Exhibit 18 for identification, document entitled "Media Affairs Call Report, 2/4/94 through 2/11/94.").....	244	4
(Han Exhibit 20 for identification, memo from Mr. Han to distribution list, dated February 28, 1994, with attachment.).....	349	19
(Han Exhibit 21 for identification, fax to Mr. Han from Mr. Parrish, with attachment.).....	358	15
(Han Exhibit 22 for identification, transcript of the February 28, 1994 Day One broadcast.).....	366	12
(Han Exhibit 23 for identification, transcript of the February 28, 1994 Day One broadcast.).....	378	12

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Keyword: (INSERT
Not Found.

Keyword: DIR

[374,15] DIR Q. Do you know if anybody who was in
this meeting was surprised by the program, given

[375,8] DIR Q. Do you think that -- do you remember
if the story that was broadcast on the 28th of

Keyword: REQ
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Keyword: RUL
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